

**LUMP SUM, TURNKEY, ENGINEERING, PROCUREMENT
AND CONSTRUCTION CONTRACT**

THIS LUMP SUM, TURNKEY, ENGINEERING, PROCUREMENT AND CONSTRUCTION CONTRACT (as may be amended from time to time, this “Contract” or “Agreement”) is entered into the 27th day of JUNE, 2023 (the “Effective Date”) by and between Grand Island Utilities District (“Owner”) and GRNE-Nelnet, LLC, a Nebraska limited liability company (“Contractor”) (each a “Party” and collectively the “Parties”).

WITNESSETH:

WHEREAS, Owner is developing the solar photovoltaic power generating facility (the “Facility,” as more fully defined below and described in the Scope of Work to be located on the site described on Exhibit G (the “Site”).

WHEREAS, Owner desires to engage Contractor to perform turnkey design, engineering, procurement, permitting, fabrication, construction, installation, commissioning, start-up, testing, and completion of the Facility and related services thereto (the “Project”), subject to the terms and conditions set forth herein; and

WHEREAS, Contractor is willing to provide such turnkey design, engineering, procurement, permitting, fabrication, construction, installation, commissioning, start-up, testing and related services for the Project upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Defined Terms. As used in this Contract, the following terms shall have the following meanings:

“Abnormally Severe Weather Conditions” means storms and other climatic and weather conditions at the Site that are abnormally severe based on a thirty (30) year lookback period, as measured by data from the nearest National Oceanic and Atmospheric Administration (NOAA) station to the Site, provided, however, in the case of precipitation (other than a named storm) occurring at the Site, such event shall be considered an Abnormally Severe Weather Condition only if such precipitation is the result of one or more weather systems occurring at the Site which, in the aggregate, cause to exceed the 100-year probability precipitation event such that no Work could reasonably have been performed during the period such weather systems passed over the Site.

“Acceptance Test Completion Notice” has the meaning set forth in Section 7.1.4.

“Acceptance Tests” means the Commissioning Tests, the capacity tests, and the Utility Interconnection Requirements.

“Actual Nameplate DC Rating” means the sum of the labeled Standard Test Conditions rating of the photovoltaic modules, expressed in kilowatts, comprising the completed Facility.

“Affiliate” means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by or is under common control with such first Person. For purposes of this definition, “control” (including “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, or by contract or otherwise, or ownership of at least fifty percent (50%) of the equity interests of such Person.

“Applicable Laws” means any and all treaties, acts, statutes, laws, codes, standards, regulations, Permits, ordinances, rules, judgments, orders, decrees, directives, or any similar form of decision or determination by, or any interpretation or administration of any of the foregoing, by any Government Authority as may be in effect from time to time, including all applicable anti-corruption, anti-money laundering, anti-terrorism and economic sanction and anti-boycott laws, including the U.S. Foreign Corrupt Practices Act.

“Application For Payment” has the meaning set forth in Section 5.2.2.1.

“Baseline Schedule” means the critical path method schedule for the performance of the Work in Smartsheet format. The initial Baseline Schedule as of the Effective Date is set forth in Exhibit F.

“BESS” or “Battery Energy Storage System” means, if applicable, the battery modules, battery racks, battery enclosure, DC/DC converters, battery inverters, and associated equipment and cabling as more fully described in Exhibit A.

“Business Day” means any day other than Saturday, Sunday, or a day on which the Federal Reserve Bank of New York is authorized or required to be closed.

“Capacity Test” means the capacity test set forth in the Testing Procedures.

“Change in Law” means a change in, or the enactment, promulgation, issuance or entry into law of any Applicable Law by a Government Authority (excluding any change in Tax law or Forced Labor Law) that (a) occurs after the Effective Date except any such change that has been publicly announced or approved by the applicable Governmental Authority but is not yet effective as of the Effective Date, and (b) materially increases Contractor’s cost to perform the Work and/or materially delays Contractor’s performance of the Work as determined by the impact of the delay on the critical path of the Baseline Schedule.

“Change Order” means a written order issued under Article 10 and signed by Owner and Contractor authorizing a change in the Work and an adjustment in the completion dates and/or Contract Price for performance or delivery of the Work.

“Commercial Terms” means the document attached as Annex I.

“Commissioning Procedures” means the detailed procedures and protocols for the Commissioning Tests, including calibration of controls and equipment and operation of the Facility through the Substantial Completion Date, that are to be developed by the Parties in accordance with Exhibit A.

“Commissioning Report” has the meaning set forth in Section 2.30.

“Commissioning Test” means the commissioning tests set forth in the Commissioning Procedures.

“Confidential Information” has the meaning set forth in Section 18.1.1.

“Consent to Energize” means a written authorization, issued by Owner, permitting backfeed power with respect to the Facility.

“Consent to PTO” means a written authorization, issued by Owner, permitting Contractor to request a permission to operate letter or any other letter that may be construed to permit the Facility to be “placed in service” for purposes of Section 48 of the Internal Revenue Code or otherwise request permission to energize the Facility.

“Contract” has the meaning set forth in the preamble.

“Contract Nameplate DC Rating” is the sum of the labeled STC rating of the photovoltaic modules, expressed in kilowatts, as agreed and described in Exhibit A.

“Contract Price” means the amount specified opposite “Contract Price” in the Commercial Terms.

“Contractor” has the meaning set forth in the Preamble.

“Contractor Contact Details” means the contact details specified opposite “Contractor Contact Details” in the Commercial Terms.

“Contractor Event of Default” has the meaning set forth in Section 13.1.

“Contractor Indemnified Parties” has the meaning set forth in Section 12.3.

“Contractor Permits” has the meaning set forth in Section 2.18.1.

“Contractor Persons” means (a) Contractor and its applicable Affiliates, (b) Contractor’s and its applicable Affiliates’ respective directors, officers, employees, agents, representatives and Subcontractors, and (c) each Subcontractor’s directors, officers, employees, agents, representatives and subcontractors.

“Contractor’s Authorized Representative” has the meaning set forth in Section 2.23.2.

“Contractor’s Taxes” has the meaning set forth in Section 2.24.1.

“DAS” or “Data Acquisition System” has the meaning set forth in Exhibit A.

“Design Engineering and Construction Documents” means those design, engineering, and construction documents for the Work based on the Scope of Work, including drawings, models, calculations, databases, analyses, data sheets, specifications, plans, method statements and other documents necessary to construct and describe the Facility with respect to the engineering, civil, structural, control, mechanical, electrical, fire protection, safety, environmental, and other systems to be incorporated therein and expectations therefor.

“Designated Person” means a Person that appears on any list issued by the U.S., the European Union, the World Bank Debarred List, the United Nations or other international organization with respect to money laundering, corruption, terrorism financing, drug trafficking, economic or arms embargoes or other related illicit activity.

“Direct Costs” means only the actual, reasonably evidenced, direct, out-of-pocket costs necessarily incurred and paid by Contractor in good faith in the proper performance of the Work, without mark-up or adjustment for contingency, profit or overhead.

“Disclosing Party” has the meaning set forth in Section 18.1.1.

“Dispute” has the meaning set forth in Section 17.1.

“Dollars” or “\$” means the lawful currency of the United States of America.

“Effective Date” has the meaning set forth in the Preamble.

“EHSS Plan” has the meaning set forth in Section 2.9.

“Environmental Site Assessment” or “ESA” has the meaning set forth in Exhibit I.

“Facility” means those components comprising the photovoltaic power plant and all facilities, systems and ancillary equipment relating thereto (as further described in Exhibit A) to be located on the Site, and to be fully and safely designed, engineered, procured, permitted, fabricated, constructed, installed, commissioned, started-up, tested, warranted and completed by Contractor as provided in this Contract and meeting the Technical Specifications, the Nameplate Rating Minimum, and the other requirements hereunder.

“Final Completion” has the meaning set forth in Section 6.4.1.

“Final Completion Date” has the meaning set forth in Section 6.4.3.

“Financing Parties” means any and all lenders, investors, equity providers (including tax equity investors) and other similar Persons, and any agents or trustees acting on their behalf, in each case providing any interim or long-term financing for the construction, operation or maintenance for the Project or the Facility.

“Force Majeure” has the meaning set forth in Section 11.1.1.

“Intellectual Property” means any patents, copyrights, trademarks, proprietary rights or information, licenses and other intellectual property rights.

“Interconnection Agreement” means the interconnection agreement for the Facility as further described on Exhibit I.

“ITCs” means investment tax credits under Section 48 of the Internal Revenue Code.

“Key Personnel” has the meaning set forth in Section 2.23.4.1.

“Lien” means any lien (statutory or other), defect in title (including conditional sale and title retention arrangements), pledge, mortgage, security interest, deed of trust, charge, fiduciary transfer, assignment, deposit or escrow arrangement, fiduciary assignment, claim, hypothecation, attachment or other encumbrance of any kind in respect of any portion of the Work, equipment or the Facility, whether or not filed, recorded or otherwise perfected or effective under Applicable Law.

“Lien Waiver” means a Lien waiver to be provided by Contractor and each Major Subcontractor in accordance with the terms hereof, in the form of Exhibit E-1 and Exhibit E-2, as applicable.

“Limited Notice to Proceed” or “LNTP” means a Notice in a form mutually agreed upon by the Parties.

“Losses” has the meaning set forth in Section 12.1.

“Major Equipment” means, with respect to the Project, the modules or photovoltaic panels, inverters, BESS (if any), DAS, racking, medium voltage transformers, switchgear, combiner box, and panel boards.

“Major Subcontract” means any Subcontract that has a contract amount or scope of Work that exceeds the amount set forth opposite the term “Major Subcontract” in the Commercial Terms or is otherwise set forth on Exhibit J.

“Major Subcontractor” means any Subcontractor that is a party to a Major Subcontract.

“Manufacturers’ Warranties” has the meaning set forth in Section 9.3.

“Mechanical Completion” has the meaning set forth in Section 6.1.2.

“Mechanical Completion Certificate” has the meaning set forth in Section 6.1.3.

“Mechanical Completion Date” has the meaning set forth in Section 6.1.4.

“Milestone Payment” has the meaning set forth in Section 5.2.2.1.

“Milestones” means, with respect to the Project, the milestones in respect of which Milestone Payments are due as set forth in an LNTP or as set forth in Exhibit B.

“Monthly Progress Report” means a monthly written report of actual progress of the Work against the Baseline Schedule in the form of Exhibit H showing in detail the progress to date and the then-current scheduling of all major elements of design, procurement, construction, testing, and other items or aspects of the Work as requested by Owner, including the incorporation of delay and acceleration analyses where appropriate.

“Nameplate Rating Minimum” means that the Actual Nameplate DC Rating shall not, without consent of Owner, equal less than 95% of the Contract Nameplate DC Rating.

“Notice” has the meaning set forth in Section 18.8.

“Notice of Mechanical Completion” has the meaning set forth in Section 6.1.3.

“Notice of Substantial Completion” has the meaning set forth in Section 6.2.3.

“Notice to Proceed” or “NTP” means a Notice in a form mutually agreed upon by the Parties.

“NTP Date” has the meaning set forth in Section 2.12.2.

“O&M Manual” has the meaning set forth in Section 2.14.

“Owner” has the meaning set forth in the Preamble.

“Owner Caused Delay” means a failure by Owner or its agents, contractors, financing parties, licensees, or personnel (each an “Owner Party”) to perform any of its obligations under this Agreement, including without limitation (a) any failure by Owner to achieve any of the critical path items that are the responsibility of Owner under this Agreement, including the timely delivery of Owner provided Permits, Owner-Provided Information, and Owner Supplied Equipment, to the extent applicable, (b) a Utility Delay, (c) any suspension of the Work ordered by Owner pursuant to Section 4.5, (d) a delay occasioned by an Owner Party, and (e) any event or circumstance that is identified in this Agreement as an Owner Caused Delay.

“Owner Contact Details” means the contact details specified opposite “Owner Contact Details” in the Commercial Terms.

“Owner Indemnified Parties” has the meaning set forth in Section 12.1.

“Owner-Provided Information” means the information, documents and other materials provided (or made available) by Owner and Owner’s Authorized Representative prior to or after execution of this Contract in relation to the Project.

“Owner Supplied Equipment” means the materials and equipment, if any, identified in Exhibit A to be provided by Owner.

“Owner’s Authorized Representative” has the meaning set forth in Section 3.2.

“Parties” means Owner and Contractor, collectively, and “Party” means either Owner or Contractor, as the context may require.

“Payment Terms” has the meaning set forth opposite “Payment Terms” in the Commercial Terms.

“Permits” means any permit, approval, license, consent, variance, notification or authorization required by any Government Authority in connection with the Work, the Facility or the Project.

“Person” means any individual, corporation (including a business trust), partnership, limited liability company, association, joint stock company, trust, unincorporated organization, joint venture or other entity of whatever nature.

“Pre-Existing Hazardous Substances” has the meaning set forth in Section 2.10.2.1.

“Progress Meeting” has the meaning set forth in Section 2.7.3. “Prohibited Payment” means any offer, gift, payment, promise to pay or authorization of the payment of any money or anything of value, directly or indirectly, to a Government Official or any other Person, including for the use or benefit of another, to the extent that one knows or has reasonable grounds to believe that all or a portion of the money or thing of value that was given or is to be given to such other Person will be paid, offered, promised, given or authorized to be paid, directly or indirectly, to a Government Official or any other Person, for the purpose of (a) improperly influencing any act or decision of a Government Official or Person, (b) inducing a Government Official or Person to do or omit to do any act in violation of his lawful duty, (c) securing any improper advantage or (d) improperly inducing a Government Official or Person to affect or influence any act or decision in order to obtain or retain business.

“Prohibited Transaction” means receiving, transferring, transporting, retaining, using, structuring, diverting or hiding the proceeds of any criminal activity whatsoever, including (a) drug trafficking, (b) fraud and bribery of a Government Official, (c) engaging or becoming involved in, financing or supporting (financially or otherwise), sponsoring, facilitating or giving aid to any terrorist person, activity or organization and (d) participating in any transaction or otherwise conducting business with a Designated Person.

“Project” has the meaning set forth in the Recitals.

“Project Documents” means this Contract and each of the agreements set forth on Exhibit I.

“Proprietary Interest” has the meaning set forth in Section 12.2.1.

“Prudent Industry Practices” means with respect to the engineering, procurement, design, construction, operation and maintenance of the Work, those prudent and good practices, methods, techniques, codes, processes, acts, equipment, and standards of safety and performance, as the same may change from time to time, as are commonly used, or are generally accepted in the

engineering, procurement, construction or construction management, operations, and maintenance, of electric generation facilities with a complexity similar to the Facility, which (i) in the exercise of prudent, proper, and reasonable judgment (ii) in light of facts known or which reasonably should have been known at the time the decision was made, and (iii) after due and diligent inquiry, would have been expected to satisfy the requirements and desired results of this Contract in a manner consistent with professional, workmanlike, and good business practices and with due regard for industry codes, manufacturer warranties, and Applicable Laws.

“Punch List” has the meaning set forth in Section 6.3.1.

“Receiving Party” has the meaning set forth in Section 18.1.1.

“Replacement Contractor” has the meaning set forth in Section 13.4.

“Risk Transfer Date” with respect to the Project, means the date on which Owner delivers the Substantial Completion Certificate to Contractor with respect to the Project pursuant to Section 6.2.

“Scope of Work” means the scope of Work for the Facility as set forth in Exhibit A.

“Seat of Arbitration” means the location specified opposite “Seat of Arbitration” in the Commercial Terms.

“Site” has the meaning set forth in the Recitals.

“Standard Test Conditions” means the industry standard conditions of 25 degree Celsius PV module cell temperature, solar irradiance of 1,000 Watts per square meter, and air mass of 1.5.

“Standards of Performance” has the meaning set forth in Section 2.2.

“State” means the state where the Project is located.

“Subcontract” means any contract, purchase order, material requisition or other agreement between Contractor and a Subcontractor or between two or more Subcontractors, with respect to performing any part of the Work or providing any equipment, materials or services in connection with the Work.

“Subcontractor” means each and every vendor, supplier, materialman, consultant design professional, or contractor of any tier, other than Contractor, performing any part of the Work or providing any equipment, materials or services in connection with the Work directly or indirectly for or to Contractor or another Subcontractor.

“Substantial Completion” has the meaning set forth in Section 6.2.2.

“Substantial Completion Certificate” has the meaning set forth in Section 6.2.5.

“Substantial Completion Date” has the meaning set forth in Section 6.2.5.

“SWPPP” means the Storm Water Pollution and Prevention Plan as defined in Exhibit C.

“Taxes” means occupational, sales, works, use, value added, excise, unemployment, income, profit, excess profit, gross receipts, license, withholding, personnel, property, services and other taxes (including, but not limited to, taxes measured by wages earned by employees of Contractor or any Subcontractor) and import, customs or other duties, fees, and contributions and any and all other taxes, charges, imposts and duties imposed by and/or payable to any Government Authority, together with any interest, penalties and additions with respect thereto.

“Technical Specifications” means the specifications and requirements for the Work as specified in Exhibit A.

“Test Procedures” means the procedures for Contractor’s testing of the Facility that are to be developed by the Parties as described in Exhibit A.

“Total Liability Limit Percentage” means the percentage described opposite “Total Liability Limit Percentage” in the Commercial Terms.

“Underground and In-Ground Facilities” means all pre-existing pipelines, conduits, ducts, cables, wires, manholes, vaults, water lines, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities, that have been installed underground.

“Utility” means, with respect to the Project, the entity that is the counterparty to the applicable Interconnection Agreement listed on Exhibit I.

“Utility Delay” means (i) all cancellations, delays, reschedules, stop-work orders, suspensions, or modifications by Utility of target in-service dates, tentatively scheduled, pre-scheduled or previously authorized events required by Owner or Utility to conduct activity under the Interconnection Agreement, including: commissioning, testing, and energization of the Project that have a material impact on the project critical path and completion of the Project relative to the Guaranteed Substantial Completion Date and cannot be otherwise mitigated; or (ii) delays caused by legal actions or challenges made by or against the Utility that directly and materially affect Contractor’s ability to complete the Project, in each case, which could not have been reasonably prevented by Contractor’s use of Prudent Industry Practices and which were not caused by a material breach of Contractor’s obligations hereunder, including but not limited to its timely submission of all reports and other reasonable information requested by Utility.

“Utility Interconnection Requirements” means the testing and interconnection requirements set forth in the Project Documents.

“Warranty” has the meaning set forth in Section 9.1.

“Warranty End Date” has the meaning set forth in Section 9.5.2.

“Warranty Period” means the period described opposite “Warranty Period” in the Commercial Terms.

“Work” means all obligations, duties, and responsibilities assigned to or undertaken by Contractor under this Contract, including those described in Exhibit A.

“Work Area” shall mean each Site or any area where Work is being performed, including laydown areas and prefabrication areas.

“Working Condition” means equipment is able to be used safely for its intended purpose as specified by the manufacturer.

1.2 Interpretation. Unless the context of this Contract otherwise requires, the following rules of interpretation shall apply to this Contract: (a) the headings contained in this Contract are used solely for convenience and do not constitute a part of this Contract between the Parties, nor should they be used to aid in any manner to construe or interpret this Contract; (b) the terms “hereof,” “herein,” “hereto” and similar words refer to this Contract in its entirety and not any particular Article, Section, Exhibit or any other subdivision of this Contract; (c) references to “Article,” “Section,” “Exhibit” are to this Contract unless specified otherwise and references to any Article or Section shall include all Sections, subsections and paragraphs contained therein; (d) references to any contract, agreement or document (including this Contract) shall be construed as a reference to such agreement or document as the same may be amended, modified, supplemented or restated; (e) references to any Applicable Law shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified, supplemented or re-enacted; (f) wherever possible, any conflict or inconsistency between any particular Article, Section, Exhibit or any other subdivision of this Contract shall be construed as complementary rather than conflicting, however, any conflict or inconsistency between any particular Article, Section, Exhibit or any other subdivision of this Contract which is irreconcilable shall be resolved in accordance with the written direction of Owner, without any entitlement to a Change Order or any other relief whatsoever; (g) references to any Person shall be construed as a reference to such Person’s successors and permitted assigns; (h) references to “includes,” “including” and similar terms shall mean “including, without limitation”; (i) the singular shall include the plural and vice versa; and (j) in case of any inconsistency between provisions of this Contract, the body of this Contract shall govern over the Exhibits attached hereto.

2. CONTRACTOR’S WORK AND OTHER OBLIGATIONS

2.1 Work to be Performed. Contractor shall have full and complete responsibility for the performance of the Work (including professional, managerial, all civil and electrical infrastructure design, procurement, delivery, handling and storing of all materials and equipment used in the Work including the solar equipment, and technical responsibility), regardless of whether any of the Work is to be performed by Contractor or its Subcontractors. Contractor shall provide to Owner, on a full turnkey basis, at the designated location within the Site, a solar photovoltaic power plant meeting Actual Nameplate DC Rating and otherwise meeting the requirements of this Agreement.

2.2 Standards of Performance. Contractor shall perform all of the Work as more specifically described in Exhibit A: (a) to provide Owner with a fully operational Facility meeting the specifications set forth in this Agreement, including all Exhibits hereto; (b) in a professional,

prudent, economical, expeditious, timely and workmanlike manner, with the degree of skill and care that is utilized by professionals in the same field under the same or similar circumstances; (c) only with materials and equipment that are new, unused, and, to Contractor's best knowledge, free from defects and deficiencies; (d) in accordance and compliance with this Contract, the Project Documents, all Applicable Laws, Prudent Industry Practices, and manufacturer's requirements; and (e) such that the Work is free from material defects in workmanship (collectively, the "Standards of Performance").

2.3 Coordination with Owner and Other Contractors. Contractor acknowledges that Persons, including Owner Indemnified Parties and other Persons hired by Owner or by others, may perform certain work on or near the Work Areas. Contractor shall (a) coordinate the Work where possible with the work of such Persons and cooperate with such Persons to minimize the impact of any interference and (b) provide such Persons with reasonable access to the Work Areas and coordinate safety and security efforts.

2.4 Protection of Property, Materials and Equipment. No Contractor Person shall damage any public or private property (including, but not limited to, all parallel, converging and intersecting electric lines and poles, telephone or cable lines and poles, roads, highways, waterways, railroads, sewer lines, natural gas pipelines, drainage ditches, culverts, buildings, structures, monuments, vehicles, trees, shrubs, lawns, walks and pavements) on roads and routes along, adjacent to, or near any Work Area. If any Contractor Person directly or indirectly causes any damage to any such property, then Contractor shall promptly notify Owner and, at Contractor's expense, repair, rebuild, reinforce or otherwise fully restore the same to the reasonable satisfaction of the property owner and in accordance with all Applicable Laws.

2.5 Document Retention Policy. Contractor shall utilize a document retention policy for material documents related to this Agreement or the Work which shall be based on the longer of (a) Contractor's standard corporate policy or (b) three (3) years following Final Completion Date of the Project.

2.6 Schedule. The Parties agree that the Baseline Schedule (set forth in Exhibit F as of the Effective Date), and a three (3) week lookahead schedule shall be the basis against which weekly progress of the Work is compared. All Work progress shall be measured by comparing actual progress of the Work to progress forecasted by the Baseline Schedule. Any change to or modification of the Work that impacts the Mechanical Completion or Substantial Completion from the Baseline Schedule may only be made in accordance with Article 10. Contractor shall use best efforts to ensure that it completes the Work in accordance with the Baseline Schedule.

2.7 Progress Reports and Meetings.

2.7.1 Generally. Contractor has the responsibility for keeping Owner and Owner's Authorized Representative aware of the up-to-date progress of the Work. Contractor shall prepare and deliver to Owner, and meet to discuss with Owner, reports of the progress of the Work, including on a monthly basis provision of the Monthly Progress Report against the Baseline Schedule.

2.7.2 Frequency and Contents. On a weekly basis, Contractor shall provide to Owner a detailed progress report of actual progress of the Work in a form substantially similar to that shown in Exhibit H (each, a "Progress Report") and an updated Work schedule showing the extent of Contractor's adherence to the Baseline Schedule. Each Progress Report and updated Work schedule shall be submitted to Owner, for review, at least one day before the Progress Meeting, following the Effective Date. Such Progress Reports shall provide Owner with a detailed summary of any deviations from the Baseline Schedule and the reasons for such deviation. Contractor shall provide a monthly schedule which will include a detail summary of the progress, updated Work schedule, and reasons for any deviations from the Baseline Schedule.

2.7.3 Progress Meetings. From the Effective Date and continuing through to Final Completion Date of the Project, Contractor shall hold weekly progress meetings, which meetings may be held telephonically, by video conference, or on-site, with Owner, Owner's Authorized Representatives, and their respective invitees (each, a "Progress Meeting").

2.8 Environmental Protection, Health, Safety and Security. Contractor shall have sole responsibility for providing and managing the Site safety, environmental management, and security programs and systems for all people and the Work itself being performed at the Work Areas through implementation of and in compliance with the EHSS Plan and O&M Manual and Applicable Laws. Contractor shall ensure that all persons who are on the Site or any other Work Areas are familiar with the EHSS Plan and O&M Manual and Site rules and shall provide training to all such persons, including Owner's personnel on any such Site. Contractor shall take all reasonable precautions for the protection of people, property and the environment, and shall provide all reasonable protection to prevent damage, injury or loss.

2.8.1 Contractor shall hold a pre-job safety briefing for all employees, contractors, and Subcontractors on their first day on Site. Hardhat stickers or an attendance log file must be issued or maintained as a proof of briefing attendance.

2.8.2 As required by Government Authority, Contractor shall provide on-site training to the local Fire Department and Police Department for first responders. Contractor is not obligated to provide more than 8 hours of training.

2.9 EHSS Plan.

2.9.1 Contractor shall deliver a Site specific draft Environmental, Health, Safety and Security Plan that is in accordance with Applicable Law in a form reasonably acceptable to Owner (the "EHSS Plan") as a condition to NTP. The EHSS Plan may follow the outline set forth in Exhibit D.

2.9.2 Contractor shall cause all Subcontractors to comply with the EHSS Plan. Contractor expressly accepts complete responsibility for the health and safety of its and its Subcontractors' employees and for its EHSS Plan and shall not be relieved of any of its responsibilities because the Owner has failed to detect or advise the correction of any unsafe conditions or practices.

2.10 Hazardous Substances.

2.10.1 Contractor shall comply with the EHSS Plan and all Applicable Law with respect to all situations involving Hazardous Substances. In the event of any conflict or inconsistency between the EHSS Plan and Applicable Law, Contractor shall follow Applicable Law.

2.10.2 Discovery of Hazardous Substances:

2.10.2.1 Contractor acknowledges, represents and warrants that it has reviewed documents provided by Owner, if any, regarding Hazardous Substances on or under the Work Areas prior to Contractor's accessing or taking responsibility thereof, and has considered such information in its planning of the Work. Contractor shall not be entitled to request any Change Order related to Hazardous Substances on or under any Work Area that were disclosed in the documentation provided by Owner or disclosed in the Environmental Site Assessment or the Geotechnical Data Report ("Pre-Existing Hazardous Substances").

2.10.2.2 Contractor will use reasonable care to prevent the release of any Pre-Existing Hazardous Substances by any Contractor Person and of any Hazardous Substances brought to the Site by a Contractor Person at each Work Area or adjacent areas thereto or any other area where Contractor performs the Work.

2.10.2.3 Contractor shall not be liable for (i) any Hazardous Substances brought onto a Site by Owner, (ii) any Pre-Existing Hazardous Substances at the Site or (iii) Hazardous Substances improperly handled, treated or stored by any Person other than Contractor Persons. If, during the course of performing the Work, Contractor becomes aware of any Hazardous Substance on or under any Work Area, whether or not created, released or brought onto a Work Area by Contractor, Contractor shall make all reports to any and all Government Authorities or other Persons as required by any Applicable Law and promptly report such condition to Owner in writing and before disturbing (or further disturbing) such Hazardous Substance.

2.10.2.4 Owner shall be liable for (i) any Hazardous Substances brought onto a Site by Owner, and (ii) Hazardous Substances improperly handled, treated or stored by any Person other than Contractor Persons.

2.10.2.5 Owner or Contractor, as set forth in Section 2.10.2, shall contain any release of and remove any Hazardous Substance that is on or under any Work Area, and such responsible Party shall (i) have liability for and responsibility to clean-up, remove and dispose of any such Hazardous Substance, and (ii) perform all clean-up, removal and disposal services with respect thereto; provided that Contractor will be entitled to a Change Order as provided in Article 10 if Owner requests that Contractor clean-up, remove or otherwise remediate any Hazardous Substances described in Section 2.10.2.3.

2.10.2.6 Construction-Related Hazardous Substances. Contractor shall ensure that none of the substances or materials prohibited by the EHSS Plan or Applicable Laws are included in any Work provided by Contractor or incorporated into the Facility.

2.11 Site Inspection.

2.11.1 Assumption of Risk, Concealed Conditions. Contractor assumes the risk of all surface and subsurface conditions at the Site, and shall not be entitled to an extension of the Work schedule or an increase in the Contract Price as a result thereof; provided, however, that if Contractor (a) encounters any non-obvious condition which a reasonable, experienced contractor would not foresee existing at the Site through the exercise of reasonable diligence consistent with Prudent Industry Practices and which varies materially from the conditions shown in, or reasonably inferable from, the Geotechnical Data Reports (to the extent then available, and if not then available, from the conditions previously encountered by Contractor) and (b) any such condition causes a material increase in the Contract Price or time required for performance of the Work, then Contractor shall notify Owner thereof as soon as such condition is exposed, and Owner shall issue a Change Order pursuant to Article 10 to address such condition.

2.11.2 Underground and In-Ground Facilities. Contractor shall have responsibility for locating all Underground and In-Ground Facilities, for assisting Owner in coordination of the Work with the owners of, or other Persons with rights to, all Underground and In-Ground Facilities during construction, for the safety and protection thereof as provided for in this Contract, and for repairing any damage thereto caused by Contractor or any Subcontractor, the cost of all of which shall be at the expense of Contractor, except to the extent of Owner's own fault or error.

2.11.3 Setbacks. Contractor shall comply with all Site setback requirements.

2.12 Commencement of the Work.

2.12.1 Limited Notice to Proceed. Owner may (but is under no obligation to) deliver to Contractor one or more LNTPs directing Contractor to commence the specific items of Work therein at the price, on the date, and subject to the payment terms and conditions, set forth therein. If Owner issues the NTP after having issued a LNTP, any portion of the Work performed under such LNTP shall be considered part of the Work and any payments made to Contractor pursuant to a LNTP shall be deemed payments under this Contract. Owner's issuance of a LNTP shall not obligate Owner to issue the NTP and Owner has no obligation under this Contract to issue the NTP.

2.12.2 Notice to Proceed. If and when Owner has determined it is desirable for Contractor to commence performance of all the Work with respect to the Project, Owner will deliver to Contractor an NTP for the Project, which shall set forth the date on which Contractor is to commence full performance of the Work with respect to the Project (each, an "NTP Date"). Contractor shall be obligated, as a condition to NTP, upon Notice from Owner that it intends to issue an NTP, to deliver to Owner the following: (a) a true and correct copy of the Project design, reasonably acceptable to Owner, (c) true and correct copies of the applicable Permits (including for the avoidance of doubt, the building and electrical permits for the Site), (d) certificates of

insurance; (e) proof of registration, certification, and licenses with all governmental entities required under Applicable Law, and (f) the EHSS Plan in a form reasonably acceptable to Owner, and (g) unless waived by Owner, the Performance Security with the obliges provided by Owner.

2.12.3 Care, Custody and Control. Upon Owner providing Contractor with access to a Site in accordance with Section 2.21.3, Contractor shall assume and maintain care, custody, and control of such Site through its Substantial Completion Date.

2.13 Engineering and Design Services.

2.13.1 General. Exhibit A constitutes the minimum criteria for safety, efficiency, reliability, operability, maintainability, quality of equipment and performance of equipment and systems for the Project. Where Exhibit A differs from the applicable industry codes and standards or Applicable Laws in effect as of the Effective Date, the more stringent of these shall apply. Where Exhibit A or Design, Engineering and Construction Documents describe portions of the Work in general terms, but not in complete detail, or are silent, it is understood that, subject to Contractor meeting the requirements of this Contract, Prudent Industry Practices shall prevail. All engineering work requiring certification shall be certified by professional engineers licensed and properly qualified to perform such engineering services under Applicable Laws, including the laws of the State where the Project is located.

2.13.2 Design Engineering and Construction Documents.

2.13.2.1 Contractor shall prepare and submit to Owner the 60% Engineering drawings and the Issued for Construction Design Engineering and Construction Documents with respect to the Project in accordance with the scope of Work. Owner shall have ten (10) Business Days to review and comment and Contractor shall incorporate or address, in writing, Owner's comments to each Issued for Construction Design Engineering and Construction Document to the reasonable satisfaction of Owner. If Owner does not respond or provide comments to Contractor's Design Engineering and Construction Documents within ten (10) Business Days of Owner's receipt, Owner shall be deemed to have accepted the same and Contractor may proceed accordingly.

2.13.2.2 Contractor shall submit all equipment access and safety-related designs to Owner for review in accordance with Section 2.13.2.1 prior to execution. If Owner provides any comments to a Design Engineering and Construction Document, Contractor shall incorporate or address, in writing, Owner's comments and promptly resubmit such Design Engineering and Construction Document to Owner for further review.

2.13.2.3 If any aspect of the installation changes relative to the Design Engineering and Construction Documents, Contractor shall provide a detailed markup of such Design Engineering and Construction Documents to the Owner for review in accordance with Section 2.13.2.1. Material changes from the design must not be executed or installed in the field without Owner's prior written approval. If Owner fails to respond

to request for review within ten (10) Business Days, Owner shall be deemed to have accepted the same and Contractor may proceed accordingly.

2.13.2.4 Contractor shall prepare and submit a package for the final Design Engineering and Construction Documents with respect to the Project to Owner, which will state the final design size of the Facility expressed in kilowatts DC at Standard Test Conditions. The final design size will be referenced for any Contract Price adjustments agreed or otherwise authorized under Article 8 or Article 10.

2.13.2.5 Owner's provision of, or failure to provide, any comments to any of the Design Engineering and Construction Documents shall in no event be deemed to impose any liability on Owner or a waiver of any of Contractor's obligations (including Contractor's obligations to perform the Work) or to otherwise relieve Contractor of its obligation to design and construct the Facility in accordance with the requirements of this Contract.

2.13.2.6 The Facility will be designed for a minimum operational life of 25 years for any permanent structures (specifically concrete pads and foundation/screws), subject to normal wear and tear and Owner's proper maintenance of the Facility; provided that the operational life is not intended to, and does not, extend or otherwise modify any Warranty given by Contractor pursuant to the terms of the Agreement or the duration thereof.

2.13.3 Interconnection. At Contractor's sole cost and expense, Contractor shall (i) obtain all interconnection approvals and agreements necessary for the testing and operation of the interconnection of the Facility in accordance with Prudent Industry Practices, Applicable Laws and Governmental Authorities; and (ii) otherwise perform all other obligations under or with respect to the interconnection of the Facility, in each case on or before the date required in the Baseline Schedule (as such date may be extended pursuant to and in accordance with this Contract). Contractor shall be responsible for performing all Work necessary to interconnect the modules, the trackers, the inverters, the transformers, the interconnection of the Facility and the other components of the Work, as set forth in the Scope of Work. Contractor shall be responsible for coordinating with the telecommunications utility if required by the utility and bringing service from demarcation onto the Site.

2.14 O&M Manual. No later than fifteen (15) days before the Substantial Completion Date, Contractor shall, upon request, deliver to Owner an operations and maintenance manual for the Project (the "O&M Manual"). The content of the O&M Manual shall be in accordance with the original equipment manufacturers' recommendations and Prudent Industry Practices and shall include, at a minimum:

2.14.1 Signed and sealed as-built drawings in PDF and DWG, including as-built ALTA survey;

2.14.2 A system description and site access details;

2.14.3 Commissioning and performance test reports;

2.14.4 Permits;

2.14.5 Utility interconnection authorizations and approvals, including permission to operate letter or any other letter that may be construed to permit the Facility to be "placed in service" for purposes of Section 48 of the Internal Revenue Code or otherwise request permission to energize the Facility;

2.14.6 Warranty information for all equipment;

2.14.7 Module flash test reports;

2.14.8 Operations, maintenance, frequency schedule, and/or service manuals and procedures provided by the manufacturer for all equipment, including a written description of the system start-up and shutdown process in both normal operation and emergency situations;

2.14.9 Internet service provider information, IP addresses, contact information and other information relevant to manage the internet connection; and

2.14.10 A price list of all operational spare parts that are recommended by the vendors of equipment comprising the Facility.

2.15 Intellectual Property.

2.15.1 No Infringement. In performing the Work, Contractor (and its Subcontractors) shall not incorporate into or use in the Facility any materials, apparatus, methods, processes or systems which infringe, misappropriate, dilute or otherwise violate the Intellectual Property or involve the use of any confidential information that Owner or Contractor does not have the right to use or which may result in claims or suits against Owner or Contractor.

2.15.2 Licenses.

2.15.2.1 Subject to this Section 2.15.2.1, any Design Engineering and Construction Documents developed by Contractor solely for the Facility under this Contract shall immediately become the property of Owner upon payment by Owner for Contractor's completion of the applicable Milestone for the Facility and shall be delivered to Owner upon Final Completion of the Facility; provided, that nothing in the foregoing shall impair, alter or otherwise affect Contractor's proprietary rights in its Intellectual Property.

2.15.2.2 Contractor agrees to grant and hereby grants to Owner an irrevocable, non-exclusive, royalty-free license under all patents, copyrights and other proprietary information of Contractor related to the Work, now or hereafter owned or controlled by Contractor to the extent reasonably necessary for the operation, maintenance, repair or modification of the Facility or any subsystem or component thereof designed, specified, or constructed by Contractor under this Contract.

2.15.2.3 Any additional inventions or Intellectual Property created during the performance of the Work by Contractor shall be owned by Contractor.

2.15.2.4 [Reserved].

2.16 Clearance and Preparation of Site. Contractor has inspected the Site and agrees that the Site, including access thereto, is sufficient for Contractor to construct the Facility and perform the Work for the Contract Price and in accordance with the applicable Baseline Schedule. Contractor will be responsible for clearing the Site (including, any Underground and In-Ground Facilities, unless directed in writing by Owner not to do so) as required to perform the Work, including the removal of both natural and man-made obstructions and performing all things necessary to achieve Final Completion. Contractor will provide for the procurement or disposal of, as appropriate, all soil, gravel and similar materials required for performance of the Work.

2.17 Civil.

2.17.1 Earthworks for utilities must consist of completing any final grading, trenching, fill, or other preparation ahead of piping, equipment, conduit, man-ways, and power line placement. Contractor will comply with basic standards of backfill and compaction appropriate for the soil type.

2.17.2 Contractor will implement and maintain surface and groundwater control methods to minimize damage and delays during and after the Work and be responsible for the removal and rehabilitation of temporary control measures.

2.17.3 Contractor will install and maintain temporary erosion control and sedimentation control during the period the Work is being performed in accordance with the SWPPP.

2.17.4 Contractor will be responsible for concrete truck washout implementation and use.

2.17.5 Contractor will supply, store, secure and maintain temporary works associated with construction water required for dust suppression and soil moisture conditioning.

2.17.6 Contractor will procure, install, and maintain all revegetation, vegetative screening and plantings required for the Project.

2.18 Permitting.

2.18.1 Contractor will timely obtain, pay for and maintain in effect those Permits designated in Exhibit C as Contractor's responsibility, produce Design Engineering and Construction Documents necessary to obtain Permits, and attend all meeting requests made by permitting authority. Contractor's responsibility for Permits shall also include any other Permits not identified as Contractor's or Owner's responsibility that are typically obtained by contractors performing work in similar projects as the Work for the Project, including all interconnection authorizations from the Utility and those referenced in Exhibit A or Exhibit I (collectively, "Contractor Permits").

2.18.2 If Contractor is unable to obtain, or has failed to timely obtain, any Contractor Permit, Contractor shall promptly notify Owner thereof. Contractor shall provide Owner with copies of all Contractor Permits and any correspondence pertaining thereto. Owner and Contractor will cooperate with each other in connection with the other Party's efforts to obtain the Permits required to be obtained by the other Party hereunder.

2.18.3 Contractor shall, upon request, provide to Owner a reasonable opportunity to comment on any material documents or material written communication submitted by any Contractor Person to any Governmental Authority on behalf of the Project or with respect to any Permit, together with evidence of submission of the same to such Governmental Authority and the receipt thereof by the Governmental Authority, as well as the contact information of the contact person at the Governmental Authority.

2.18.4 Contractor shall provide copies of all Contractor Permits to Owner promptly following issuance of the same by a Governmental Authority. Contractor shall provide copies of any notices received by any Contractor Person with respect to the Project from any Governmental Authority.

2.19 Artifacts. If Contractor discovers any item believed by Contractor to be a historically significant artifact, then Contractor shall promptly report such discovery to Owner verbally and in writing and immediately cease performance of any Work in the area where such item is located and secure, protect and barricade such affected area. Following Contractor's notification, Owner's investigation and all reasonable consultation between the Parties, Owner shall promptly notify Contractor in writing whether it believes that such item is a historically significant artifact and Owner assumes all responsibility concerning the potential impact of proceeding with construction without seeking the review of the appropriate agency. If Owner notifies Contractor that such item is a historically significant artifact, then Contractor shall not resume performance of the Work in the affected area without the prior written permission of Owner and, subject to Contractor's compliance with Article 10, Contractor shall be entitled to a Change Order to extend the Guaranteed Dates by the number of days reasonably delayed in addressing this issue. If Owner notifies Contractor that such item is not a historically significant artifact, then Contractor may resume performance of the Work in the affected area.

2.20 Procurement of Materials, Equipment, Supplies and Labor.

2.20.1 Generally. Contractor shall procure and pay for (other than with respect to any Owner Supplied Equipment), receive, offload, crane, uncrate, inspect, and transport to any Work Area, as an independent contractor and not as agent for Owner: (a) all materials, equipment, supplies (including any Owner Supplied Equipment); and (b) all Contractor and Subcontractor labor and manufacturing and related services (whether on or off the Site) for construction of and incorporation into the Facility which are required for completion of the Work in accordance with this Contract, unless explicitly specified as being furnished by Owner pursuant to Article 3.

2.20.2 Submittals: Thirty (30) days prior to mobilization, Contractor shall provide Owner a complete submittal package that includes specification, cut sheets, installation manuals, warranty information for all switchboards, panel boards, pipe, wire, communication cables and

fittings, electrical fittings, splices, terminations, sundries, and other balance of system components. Contractor's engineer of record shall sign off on the submittal package prior to issuing it for Owner review. If Contractor materially modifies any submittal on-site Contractor shall provide documentation for Owner's review. If submittal is not acceptable due to technical, code, or application purposes Contractor shall bear full cost and risk to remove and replace.

2.20.3 Documentation. Contractor shall document receipt of materials, via signed bill of lading ("BOL") or otherwise, and provide an overages, shortages, or damages ("OS&D") report to Owner.

2.20.4 Storage and Related Matters. Contractor shall maintain the new and clean condition of all materials associated with the Work. Contractor shall comply with all receipt, storage, waterproofing, security, laydown, and maintenance requirements recommended by the relevant manufacturer or, if there is no recommendation, as set forth in the Technical Specifications or, if there is no recommendation set forth in the Technical Specifications, consistent with Prudent Industry Practices. During the construction of the Facility, Contractor shall warehouse or otherwise provide appropriate storage, in accordance with manufacturers' recommendations and in such a manner as to not degrade the operation or performance of the equipment or void warranties for the stored equipment, for all materials, supplies and equipment to be incorporated into the Facility and/or required for permanent and temporary construction.

2.20.5 Fit for Use. Contractor agrees that all materials, components and equipment to be supplied or used by Contractor or its Subcontractors in the performance of its obligations under this Contract shall be in new condition and fit for the use(s) for which they are employed by Contractor or its Subcontractors and capable of operating in accordance with all requirements of this Agreement.

2.21 Title Transfer and Risk of Loss.

2.21.1 From the Effective Date and until the Final Completion Date Contractor assumes risk of loss and full responsibility for the cost of replacing or repairing any damage to the Facility and all materials, equipment, supplies and maintenance that are received by Contractor for permanent installation in or that are for use during construction of the Facility regardless of the cause of damage.

2.21.2 Materials, Supplies, Equipment and Machinery. Title to all materials, supplies, equipment and machinery provided by Contractor to Owner as part of the Work shall vest in Owner upon the earliest of: (a) the date of payment therefor to Contractor by Owner (less any amounts withheld by Owner in accordance with this Contract); (b) upon incorporation into the Work (or in the case of document deliverables, upon submission to Owner); and (c) the date of the termination of this Contract.

2.21.3 Care, Custody and Control. Notwithstanding passage of title from Contractor to Owner, subject to the terms of this Contract, Contractor will retain care, custody and control of the Facility and all such materials, supplies, equipment and machinery related thereto (including, from and after delivery to the Site, Owner Supplied Equipment), and, subject to the

availability of proceeds under any builder's all-risk insurance policy obtained by Owner, bear the risk of loss, destruction or damage (including deterioration in quality) thereof (including any deductibles and uninsured losses) until the earlier of the applicable Risk Transfer Date or a termination under this Contract. Notwithstanding the transfer of care, custody and control of the whole or any part of the Facility to Owner, Contractor shall remain responsible for any damage caused by Work performed in relation to the Punch List and Warranty obligations. Following the Risk Transfer Date with respect to the Project, Contractor shall have reasonable access to the Facility and any remaining Work Areas then controlled by Owner, and the reasonable cooperation of Owner in order complete any Punch List items; provided, that Contractor's right of access after Substantial Completion shall (a) be in accordance with all of Owner's safety rules, policies, plans and procedures and (b) not (i) interfere with the ongoing operation of the Facility or Owner's obligations to third parties or (ii) include the right to request a shutdown or reduction in Facility operations. Contractor shall schedule and coordinate with Owner any such Work to minimize any adverse impact on Owner's ability to operate the Facility. Contractor shall be liable for, and shall bear the full cost of, any and all material damage to the Facility that may arise due to Contractor's acts or omissions after the applicable Substantial Completion Date. If Contractor fails to rectify such damage within the reasonable period of time set forth in a Notice from Owner, Owner may cause the damage to be rectified by a third party at Contractor's cost.

2.21.4 No Liens or Encumbrances. Contractor warrants and guarantees that, so long as Owner has made all payments then required to have been made pursuant to this Contract, title to all materials, supplies and equipment shall pass to Owner free and clear of all Liens, and that such items shall not be acquired by Contractor subject to any Lien retained by any Person. Contractor further warrants and guarantees that all services shall be provided to Owner free and clear of all Liens, so long as Owner has made all payments then required to have been made pursuant to this Contract.

2.22 Subcontractors and Subcontracts.

2.22.1 Approval and Change of Subcontractors. Owner hereby approves the list of Major Subcontractors set forth on Exhibit J. Owner shall have the right to approve all additional Major Subcontractors, such approval not to be unreasonably withheld, conditioned, or delayed.

2.22.2 Contractor Representations. Contractor hereby represents and warrants to Owner as follows:

2.22.2.1 Contractor has performed appropriate due diligence on each Major Subcontractor to ensure that such Major Subcontractor is capable of performing, and shall, perform its Subcontract in accordance with its terms and so as not to cause Contractor to be in breach of this Contract; and

2.22.2.2 Contractor has conducted sufficient compliance due diligence on each Major Subcontractor to ensure that such Major Subcontractor will perform in compliance with Section 18.14.

2.22.3 In the event Contractor decides to change any Major Subcontractor listed in Exhibit J, Contractor shall notify Owner in writing. Provided that the new Major Subcontractor meets the requirements specified in this Section 2.22, then Owner shall not unreasonably withhold approval. If Contractor engages any additional Major Subcontractors pursuant to this Section 2.22, Contractor shall make in writing to Owner the representations and warranties provided in this Section 2.22 with respect to each additional Major Subcontract prior to engaging any additional Major Subcontractors.

2.22.4 No Privity with Owner. Owner will not be deemed by virtue of this Contract or otherwise to have any contractual obligation to or relationship with any Subcontractor. Contractor will include a clause to this effect in each Subcontract. No Subcontractor is intended to be or shall be deemed a third-party beneficiary of this Contract. Contractor shall be solely responsible for paying each Subcontractor for services, equipment, material or supplies in connection with the Work and the Facility. Contractor shall be fully responsible for the Work performed in whole or in part by any of its Subcontractors and nothing herein shall relieve Contractor of any and all obligations hereunder, whether or not Contractor has delegated such obligations to a Subcontractor. Notwithstanding the foregoing, Owner shall have the right to pay any Subcontractor directly if Contractor fails to do so in breach of the applicable Subcontract, but such payment shall be deducted from amounts owing, or to be owed, to Contractor, and no such payment shall give rise to any duty or obligation by Owner with respect to such Subcontractor.

2.22.5 Subcontractor Warranties and Guarantees. Contractor shall, upon request, procure from all Major Subcontractors warranties and guarantees with respect to any materials, equipment or services provided by such Subcontractors consistent with the warranties and guarantees provided by Contractor under this Contract. To the extent commercially available, such warranties and guarantees shall cover a period of not less than the Warranty Period. Neither Contractor nor any Contractor Person shall take any action which could amend, modify, release, void, impair, discharge or waive any existing Subcontractor warranties and guarantees without the consent of Owner. Upon the Substantial Completion Date, all remaining warranties (including with respect to all Major Equipment), if any, under each Major Subcontract shall be assigned to Owner.

2.22.6 Joint Checks; Direct Payment. Owner may, in its sole discretion, issue joint checks payable to Contractor and Subcontractors, or directly pay Subcontractors who are owed payment in respect of the Work. Contractor agrees that any such payment by joint check shall be deducted from any payments due Contractor. Contractor expressly grants Owner a limited power of attorney to endorse any joint check on its behalf.

2.23 Labor and Personnel.

2.23.1 Generally. Contractor will provide and be solely responsible for all labor and personnel required in connection with the Work, including professional engineers properly licensed to perform engineering services at the Site and qualified to perform the type of engineering services required by Contractor hereunder or by any Subcontractor. Contractor agrees to use, and agrees that it shall require each of its Subcontractors to use, only personnel who are qualified and properly trained and who possess every license, permit, registration, certificate or other approval required by Applicable Law or any Government Authority to enable such Persons to perform their

Work involving any part of Contractor's obligations under this Contract. All equipment operators will maintain proper licensing and no individual may operate a piece of equipment on which they have not had appropriate training.

2.23.2 Contractor shall provide (a) a project manager who shall have the experience to manage the overall Project and authority to administer this Contract on behalf of Contractor ("Contractor's Authorized Representative"), to furnish information as requested by Owner and to agree upon procedures for coordinating Contractor's efforts with those of Owner, and (b) one or more Site construction managers, who shall conduct and manage the Work at the Site at all times, who shall be experienced in procurement and construction of photovoltaic solar energy projects similar to the Work and whose duties shall include, among other things, coordination of Work between all entities performing Work on the Site on behalf of Contractor, including Contractor's Subcontractors.

2.23.3 Appointment and Notification. Contractor shall appoint Contractor's Authorized Representative and notify Owner in writing of Contractor's Authorized Representative's name, mailing address, email address, facsimile and telephone number within five (5) days after the Effective Date. Contractor may, at any time and subject to Section 2.23.4, change the designation of Contractor's Authorized Representative; provided, that Contractor shall promptly notify Owner in writing of such change. Contractor's Authorized Representative shall be authorized to (a) agree to Change Orders; (b) agree upon procedures; and (c) provide such information as requested by Owner, and as is necessary for coordinating the efforts of the Parties. For the avoidance of doubt, Contractor's Authorized Representative shall have no authority to amend this Contract.

2.23.4 Key Personnel.

2.23.4.1 Contractor's staff shall include the Contractor Persons holding the positions set forth in Exhibit K, who shall be dedicated to the Project and shall be reasonably acceptable to Owner (the "Key Personnel").

2.23.4.2 Contractor will not remove, reassign (full or part time), or replace any of the Key Personnel without providing for an appropriate transfer of responsibilities to another qualified person.

2.23.4.3 If at any time during the performance of the Work any individual Contractor Person becomes, in Owner's reasonable discretion, a detriment to the Project, then, upon Notice from Owner, Contractor will meet with Owner to determine Owner's issues with such Contractor Person. If Contractor does not adequately address Owner's issues, then upon Notice from Owner, Contractor will promptly remove such individual, and replace such individual with an individual reasonably acceptable to Owner.

2.23.5 No Cost or Schedule Relief. Contractor shall not be entitled to any cost or schedule relief (including compensation, damages or other remuneration) for (a) delay or extensions of time given for the addition, replacement or renewal of any Key Personnel or (b) any labor shortage of any kind.

2.24 Taxes.

2.24.1 Contractor's Taxes. Contractor will (a) administer and pay for, and (b) furnish the appropriate taxing authorities all information and reports required in connection with all Taxes that are not specifically listed as Owner's responsibility under Section 3.3 (collectively, "Contractor's Taxes"), including all Taxes (a) upon or in relation to the importation of any component or portion of the Work, drawings or designs into the United States or transfer or sale of same to Owner; (b) of any nature whatsoever including all United States federal, state, regional, and local taxes, national and foreign taxes, goods and services taxes and occupational, excise, unemployment, ownership, value added, gross receipts, and income taxes, and any and all other Taxes effective as of the Effective Date, each as imposed on any Contractor Person or the Work; and (c) all state retail sales and use taxes imposed under Applicable Laws of the State where the Facility is located. All Contractor's Taxes are included in the Contract Price.

2.24.2 Cooperation, Owner's Right to Withhold. Contractor shall, to the extent reasonably possible, provide Owner with such assistance as Owner reasonably requests in order to enable Owner to obtain or take advantage of tax exemptions, rebates and credits available with respect to the Project for the benefit of Owner. To the extent that any withholding or deduction from any amount payable by Owner to Contractor is required under Applicable Laws to be made by Owner in respect of any Contractor's Taxes, Owner may make such withholding or deduction from such payment and pay such amount over to the appropriate taxing authority and Contractor shall have no recourse against Owner in respect of such withholding or deduction.

2.24.3 Reimbursement. If Contractor fails to pay any Contractor's Taxes that Contractor is legally obligated to pay and such failure continues for thirty (30) days after receipt by Contractor of written Notice of such failure from Owner, then Owner shall have the right, but not the obligation, to pay such taxes. To the extent Owner pays any of Contractor's Taxes pursuant to the previous sentence, Contractor will reimburse Owner for the full amount paid by Owner (increased for any tax cost incurred by Owner in connection with such reimbursement) within thirty (30) days after Contractor's receipt of written evidence of such payment. Contractor will cooperate with Owner in its application for refunds of any Taxes improperly paid by Owner and will pass such refunds on to Owner to the extent Owner has not withheld funds from any payments to Contractor pursuant to Section 5.3. Contractor will maintain copies of all tax exemption certificates in its records.

2.25 Contractor's Insurance. Within thirty (30) days of the Effective Date, Contractor shall, at its sole cost and expense, obtain, maintain and keep in full force and effect during the term of this Contract insurance in accordance with the following requirements and shall list Owner as additional insured: Umbrella/Excess Coverage – \$5,000,000 per occurrence and in the aggregate; General Liability Aggregate – \$2,000,000; Each Occurrence – \$1,000,000; Automobile – \$1,000,000/accident; Worker's Compensation – consistent with applicable law; Builder's Risk – consistent with Prudent Industry Practices.

2.26 Construction Utilities. Through Final Completion Date, Contractor shall supply and pay for all utilities used to perform the Work, including electricity (subject to Owner's Consent to Energize with respect to backfeed power), water, telephone, data and internet, sanitary facilities,

and temporary lighting. Lighting must be sufficient to permit the Work to be carried out efficiently, satisfactorily, and safely, and to permit thorough inspection. During such time periods, the access to the place of work must be clearly illuminated.

2.27 Start-Up and Operation. Subject to Owner's Consent to Energize, Contractor shall commission, start-up and test the Facility and its systems and components, calibrate all controls and equipment, and operate the Facility until with the completion of the Commissioning Procedures and Acceptance Tests. Contractor shall comply with all of Owner's requirements set forth in the Project Documents to facilitate interconnection between the Facility and the applicable Utility. Contractor shall provide and be responsible for all labor and personnel for any repairs, adjustments or other non-operational Work required in connection with such start-up and initial operation.

2.28 Clean-Up and Waste Disposal.

2.28.1 During Performance of the Work. During the daily performance of the Work, Contractor shall maintain safe and clean Site at Contractor's expense in accordance with this Contract and Applicable Laws. Contractor shall dispose of all waste associated with Owner Supplied Equipment, including disposal of all packaging materials.

2.28.2 Prior to Final Completion. As a condition to Final Completion, Contractor will, at Contractor's cost and expense: (a) clean the Facility and the Site to Owner's reasonable satisfaction; and (b) remove and properly dispose of all waste materials, rubbish, sanitary facilities, temporary erosion controls, Contractor's tools, construction equipment, surplus materials and other debris from the Facility and the Site. If Contractor has failed to fulfill its obligations under this Section 2.28.2, then Owner, after having given prior Notice to Contractor, may itself or through others perform such obligations. All reasonable, documented costs and expenses related to such actions of Owner will be for the account of Contractor. The taking of such actions by Owner will not relieve Contractor of its obligations under this Contract or any Applicable Law.

2.29 Tariff Treatment and Incentives. With respect to the Work, Contractor shall cooperate with and provide reasonable assistance to Owner in connection with Owner's preparation and submittal of all documents necessary to participate in and qualify for any local, state or federal incentives and programs including community solar programs (where applicable), renewable energy credits, net metering credits, tax credits and any other environmental credits or incentives.

2.30 Commissioning Report and Test Procedures. Contractor shall deliver to Owner a draft form of commissioning report required by Exhibit A (the "Commissioning Report") and draft Commissioning Procedures within thirty (30) days after Contractor's mobilization date. The draft form of Commissioning Report and draft Commissioning Procedures shall be subject to Owner's approval, not to be unreasonably withheld. Within fifteen (15) Business Days after receipt by Owner of any draft form of Commissioning Report and draft Commissioning Procedures, Owner shall either approve such draft form of Commissioning Report and draft Commissioning Procedures or provide comments thereon. Within ten (10) Business Days following receipt of Owner's comments, Contractor shall review Owner's comments and either address, in writing,

such comments to Owner's satisfaction or incorporate such comments into such form of Commissioning Report and Commissioning Procedures and reissue such form of Commissioning Report and Commissioning Procedures to Owner.

2.31 Owner's Instructions. Contractor shall comply with and strictly adhere to all of Owner's instructions and directions given by Owner's Authorized Representative (whether or not Contractor disputes or questions such instructions or directions), except to the extent (a) prevented by any Applicable Law or (b) Contractor reasonably believes that compliance with such instructions or directions would cause safety hazards to any Person or the environment. If Contractor believes that any Owner instruction entitles Contractor to a Change Order, Contractor shall comply with Article 10. If Contractor disputes any instruction or direction of Owner, such dispute shall be resolved in accordance with Article 17; provided, that Contractor shall comply with all instructions and directions received from Owner and shall continue to perform the Work pending resolution of the Dispute. Contractor shall take instructions and directions only from Owner in writing as to the performance of the Work.

2.32 No Liability or Responsibility of Owner.

2.32.1 Regarding the Nature of the Work. Except as explicitly set forth in this Contract, failure by Contractor to fully inform itself of the conditions which may affect the Work prior to or after execution of this Contract shall be Contractor's risk and shall neither (a) provide any cost or schedule relief for Contractor or entitle Contractor to a Change Order under Article 10 nor (b) relieve Contractor of its obligations under this Contract.

2.32.2 Owner-Provided Information. Except for the Owner-Provided Information upon which Contractor may reasonably rely for accuracy and completeness based on the context or content thereof, Owner-Provided Information has been provided (or made available) for reference only. Owner shall not be liable to Contractor for and makes no representation or warranty as to the accuracy, completeness, sufficiency, suitability or reliability of any information, data, statements, opinions or conclusions in any Owner-Provided Information. Contractor shall not be entitled to request any Change Order related to the accuracy, completeness, sufficiency or suitability of any information, data or statements contained in any Owner-Provided Information, except to the extent Contractor would otherwise be entitled to a Change Order hereunder (including, by way of example rather than limitation, as a result of a Force Majeure event contemplated by Article XI).

3. OWNER OBLIGATIONS

3.1 Payment. Owner shall pay the Contract Price and all other sums, if any, required to be paid by it to Contractor in each case pursuant to the terms and conditions of Article 5.

3.2 Authorized Representative. Owner shall appoint a representative (the "Owner's Authorized Representative") and notify Contractor in writing of Owner's Authorized Representative's name, mailing address, email address, facsimile and telephone number within five (5) days after the Effective Date. Owner may, at any time, change the designation of Owner's Authorized Representative; provided that Owner shall promptly notify Contractor in writing of

such change. Owner's Authorized Representative shall be authorized (a) to administer, modify or amend this Contract on behalf of Owner, (b) to agree upon procedures and (c) to provide such information as is necessary for coordinating the efforts of the Parties.

3.3 Taxes. Owner shall be responsible for the administration and payment of: (a) any property taxes or payments in lieu of taxes in connection with materials and equipment to be incorporated into, installed in, or affixed or attached the Facility after title has passed to Owner; and (b) any additional Taxes which Owner is legally obligated to pay, including any Taxes with respect to Owner Supplied Equipment, the property upon which the Project is located, and any Taxes on Owner income.

3.4 [Reserved].

3.5 Owner Supplied Equipment. To the extent applicable, Owner shall be responsible for making payments to the third parties for the purchase and transportation to the Site of Owner Supplied Equipment that is capable of satisfaction of the Contract Nameplate DC Rating and the delivery of the Owner Supplied Equipment to the Site on the dates agreed to by the Parties in writing; provided, that Contractor shall be responsible for acceptance, inventorying, storing, testing, inspecting and installing any Owner Supplied Equipment.

3.6 Delivery and Unloading of Owner Supplied Equipment.

3.6.1 Owner shall give to Contractor reasonable Notice of anticipated delivery dates of Owner Supplied Equipment and shall coordinate with Contractor when delivery will be made for the purpose of minimizing impact on Contractor's performance of the Work and limiting the need for storage of Owner Supplied Equipment by Contractor to that necessary for the efficient performance of the Work. Such dates shall have a grace period of three (3) Business Days before and after the anticipated date of delivery to accommodate delivery uncertainty. Contractor is responsible for accepting delivery of the Owner Supplied Equipment at the Site and unloading, inspecting, documenting, inventorying and safely and securely storing the Owner Supplied Equipment in accordance with Prudent Industry Practices. Contractor shall not leave any Owner Supplied Equipment exposed, unsecured, or unguarded without the written consent of Owner or Owner Representative.

3.6.2 Contractor shall notify Owner and Owner's Authorized Representative of the receipt of each Owner Supplied Equipment, via daily reports, within four (4) Business Days after such receipt at the Site ("Delivery Notice"), stating whether or not such delivered Owner Supplied Equipment detailed by each daily report was received by Contractor: (a) in a good and new condition, without visible defects or damage including the packaging; provided that if any packaging appears damaged the contents will be immediately examined for damage and reported, and (b) matching the specifications for such Owner-Provided Information previously provided to Contractor. All shortages or damages must be documented by photographs and delivery driver signature. Contractor shall execute a delivery checklist in a form reasonably provided by Owner.

3.6.3 If Contractor fails to timely provide a Delivery Notice of damage or failure to match provided specifications, Contractor shall bear all responsibility for all costs and delays

associated with such Owner Supplied Equipment and Owner shall have the right to either, at its sole discretion and election, (a) invoice Contractor for any such costs, payable by Contractor within thirty (30) days of Contractor's receipt of such invoice, or (b) offset any such costs against payment of the Contract Price.

3.6.4 If a Delivery Notice indicates that Owner Supplied Equipment have been received by Contractor without visible damage and that matches the provided specifications but at any time thereafter until Mechanical Completion are not in Working Condition, Contractor shall manage the RMA/Warranty process and Contractor shall have the right to a Change Order per Article 10. For clarity, Contractor shall not be responsible for any costs associated with Owner Supplied Equipment that are not in Working Condition after receipt of them without visible damage and matching the provided specification.

3.6.5 If Contractor notifies Owner and Owner's Authorized Representative within such four (4) Business Day period that an Owner Supplied Equipment was received by Contractor visibly damaged or not matching provided specification and Owner certifies the same by countersignature of such notice, (i) Contractor shall comply with Owner's instructions regarding repackaging and return of any applicable Owner Supplied Equipment; and (ii) Owner shall redeliver such Owner Supplied Equipment in Working Condition.

4. OWNER'S RIGHTS

4.1 Right to Attend Contractor Testing and Inspections. Owner will have the right to be present at all inspections and testing, provided that Owner complies with Contractor's reasonable safety and security protocols. Except as set forth in Article 7, Contractor shall notify Owner of any significant testing or significant inspections of the Work or any portion thereof no less than five (5) Business Days in advance of such testing or inspection. In the event that such inspections and testing reveal that the quality of the Work is not in accordance with this Contract, Contractor shall promptly correct such faults and retest to prove successful remediation. Owner or Owner's Authorized Representative will be entitled to remedy such deficiencies or take actions as set forth in Section 4.2.

4.2 Inspection and Correction of Work. At any stage of completion and wherever located, Owner or its representatives will have the reasonable right to have access to and to inspect the Work, on reasonable Notice to Contractor, on a Site and off a Site. If Owner's inspection reveals any material non-compliance with this Contract or any other material defects in any portion of the Work, then upon written Notice from Owner, Contractor will promptly stop such defective Work and correct all such defective or non-compliant Work. If Contractor fails to initiate correction of the defective or non-compliant Work within five (5) days of Owner's notification thereof, or thereafter fails to diligently pursue correction of the defective or non-compliant Work, then Owner may, without prejudice to any other remedy Owner may have, correct such defective Work. Owner's exercise of its rights under this Section 4.2 is without prejudice to any other right or remedy Owner may have, and Owner's correction of such defective or non-compliant Work will not relieve Contractor of its obligations under this Contract. All reasonable, documented costs

and expenses related to the corrective actions taken by Owner will be for the account of Contractor, and Contractor will promptly reimburse such amounts to Owner.

4.3 Right to Audit Contractor Records. Without limiting the provisions of Section 18.3, Owner shall have the right but not the obligation to inspect, during normal business hours, all records of Contractor or any of Contractor's Affiliates that are not subject to attorney-client privilege in connection with the Work for the following: (a) non-payment claims pursuant to Article 10 and Article 13, (b) Contract compliance pursuant to Section 18.14, and (c) compliance with the EHSS Plan pursuant to Section 2.9. Reviews and/or audits may be performed by Owner, Owner's Authorized Representatives and/or Financing Parties, in each case upon reasonable Notice to Contractor.

4.4 Right to Stop Work for Cause.

4.4.1 Owner or its representatives may order Contractor to immediately stop performance of specific portions of the Work if the activities of Contractor or any Subcontractor are, in the opinion of Owner or its representatives, causing or threatening to (a) cause imminent danger to life or damage to property, (b) violate Owner's obligations under the Project Documents, (c) not be in compliance with the Standards of Performance or (d) violate any Applicable Laws, in which case Contractor shall immediately stop such activities until Owner agrees upon corrective actions and a restart date. In the event of such a stop order subject to Contractor's right to dispute the basis for such order, Contractor will not be entitled to a Change Order adjusting the Work schedule or adjusting the Contract Price and the cost of any delays experienced by Contractor as a result of such order will be borne by Contractor. Owner's right to stop work under this Section 4.4 is without prejudice to any other right or remedy Owner may have under this Contract. If any stop order is determined to have been without proper basis it shall be deemed a suspension by Owner pursuant to Section 4.5.

4.4.2 If Contractor fails to promptly initiate correction of any event listed in Section 4.4.1, then Owner may order Contractor to suspend in part or in whole the performance of the Work until the cause of such failure has been eliminated; provided that such right of Owner to suspend Contractor's performance of the Work (in part or in whole) shall not give rise to any duty on the part of Owner to exercise such right for the benefit of Contractor or any other Person.

4.5 Right to Suspend Work for Convenience. Owner may for any reason, and at any time by a written order, suspend (and later reinstate) the Work, or any portion thereof, without terminating this Contract. Upon receipt of such order, Contractor will promptly suspend (or reinstate as soon as reasonably practicable, as applicable) its performance of such Work, or the portion of such Work, for such time or times and in such manner as Owner may require and shall during any such period properly protect, make safe, and secure the Work, or the portion of the Work, which was suspended by Owner, in such manner as Owner shall request. Unless otherwise instructed by Owner, Contractor shall, during any suspension, maintain to the extent practicable its staff and labor on or near the Site and/or necessary easements ready to proceed with the Work as soon as practicable upon receipt of Owner's further written instructions. If, after the issuance of

a LNTP or Notice to Proceed, Owner suspends the Work pursuant to this Section 4.5, then Contractor will be entitled to a Change Order as provided in and subject to Article 10.

4.6 Right of Self-Help. Except as set forth in Section 9.2, if Contractor fails to perform any obligation within the time frame set forth in this Contract for Contractor to perform the same, then, unless this Contract states specifically otherwise, Owner, after ten (10) Business Days' prior written Notice to Contractor, may elect to perform such obligation and may deduct from payments due or to become due to Contractor reasonable, documented amounts paid or incurred by Owner in connection with such undertaking; provided, that Owner may not exercise such right if, within ten (10) Business Days after receipt of Notice from Owner, Contractor either commences to perform such obligation or otherwise provides a remediation plan to Owner (reasonably acceptable to Owner) for such failure. In the event Owner performs any such obligation under this Section 4.6, Owner shall act in accordance with Applicable Laws and Prudent Industry Practices at all times. Any notice to be provided under this Section shall be subject to the requirements set forth in Section 18.8.

5. PRICE AND PAYMENT

5.1 Contract Price. As full compensation and consideration for the full and complete performance of all of the Work and all costs (including Contractor's Taxes) in connection therewith Owner shall pay to Contractor, and Contractor shall accept the Contract Price, subject to the provisions of this Contract, including Section 5.2.

5.2 Payments for Work.

5.2.1 Contract Price. Contractor agrees to perform the Work (including any Work performed under a Limited Notice to Proceed) for the Project for the Contract Price, as such Contract Price may be modified from time to time solely in accordance with Article 8 and Article 10.

5.2.2 Milestone Payments.

5.2.2.1 Payments to Contractor will be based upon completion of the Milestones (each such payment, a "Milestone Payment"). After the achievement of one or more Milestones, Contractor shall submit an application for payment for payment of the Milestones achieved, which application shall include an invoice, the information required under Section 5.2.2.3, and all submittals, reports and Lien waivers required pursuant to Sections 5.3.1 through 5.3.4 (collectively, the "Application For Payment") to Owner; provided that, not more than one Application For Payment may be submitted in a given calendar month.

5.2.2.2 For all Milestone Payments, Owner will notify Contractor within ten (10) Business Days after receipt of a proper and complete Application For Payment, whether such Application For Payment is accepted or rejected (in whole or in part), and if accepted, the amount of such requested Milestone Payment(s) that is accepted. If Owner rejects any Application For Payment, it shall promptly notify Contractor of the reason for such rejection. In accordance with the Payment Terms, starting after the day on which

Owner originally received a properly supported Application For Payment, Owner shall pay to Contractor the applicable Milestone Payment(s) less any amounts retained, withheld or set-off in accordance with this Contract. From time to time, upon request from Owner, Contractor shall issue to Owner a receipt for such payment in such form as Owner may require.

5.2.2.3 As part of each Application For Payment, Contractor shall include reasonable evidence that all Work comprising the Milestone(s) for which the Milestone Payment is being requested has been completed in accordance with the terms of this Contract. Owner, the Financing Parties, and their respective agents and representatives shall have the right, within the time periods set forth below, to inspect the Work to verify Contractor's completion of Work for which payment is being requested (at Owner's sole cost).

5.3 Conditions of Payments.

5.3.1 Required Submittals. Owner will not be required to make a Milestone Payment to Contractor unless the submittals described in this Section 5.3.1 applicable to such Milestone Payment have been provided.

5.3.2 Progress Reports and Schedules. Contractor must have provided Owner with a Progress Report and Work schedule update within ten (10) days of the date of such Application For Payment.

5.3.3 Lien Waivers and Releases. In order to be valid, each Application For Payment submitted by Contractor must be accompanied by: (a) a conditional progress Lien release in the form of Exhibit E-1 for the amount being requested in the applicable Application For Payment, executed by Contractor and each Major Subcontractor; and (b) any other information, documentation, or certification that Owner reasonably requests in connection with any Liens or such waivers and releases.

5.3.4 Full Lien Waivers and Releases for Final Completion. In order to be valid, an Application For Payment for the Final Completion payments from Owner must be accompanied by: (a) a conditional Lien release in the form of Exhibit E-1 executed by Contractor and each Major Subcontractor with respect to the Project; and (b) any other information, documentation, or certification that Owner reasonably requests in connection with any Liens or such waivers and releases. Within ten (10) days of payment of the final Application For Payment, Contractor shall deliver final unconditional Lien releases in the form of Exhibit E-2 executed by Contractor and each Major Subcontractor.

5.3.5 [Reserved].

5.3.6 Lien Bonds. Owner shall release any payments withheld due to any Lien filed by a Subcontractor, if Contractor obtains, at its sole expense, a letter of credit, lien bond or other security, which is in form and substance satisfactory to Owner, and in an amount required by Applicable Law to release the Lien.

5.3.7 Payment after Removal of Cause. When Contractor has remedied the cause for withholding any payment and has furnished evidence of such remedy that is reasonably satisfactory to Owner, Contractor may include in the next Application For Payment to be submitted a request for payment of the amounts withheld by Owner, and Owner shall pay such amounts.

5.3.8 [Reserved].

5.4 Payment or Use Not Acceptance. No Milestone Payment or other payment to Contractor or any use of the Facility by Owner or any other Person will constitute an acceptance of any of the Work furnished by Contractor or shall relieve Contractor of any of its obligations or liabilities under this Contract.

6. COMPLETION AND ACCEPTANCE OF THE WORK

6.1 Mechanical Completion.

6.1.1 Guaranteed Mechanical Completion. Contractor shall use best efforts to ensure that Mechanical Completion with respect to the Project will occur no later than the Guaranteed Mechanical Completion Date, subject to extensions expressly set forth in this Agreement.

6.1.2 Criteria. "Mechanical Completion" will be achieved with respect to the Project when each of the following conditions have been met with respect to the Project:

6.1.2.1 Contractor has completed the design, engineering, procurement and construction necessary for the full and safe start-up and commissioning of the Facility in accordance with the Standards of Performance and the Facility is capable of being operated to the extent permissible prior to interconnection;

6.1.2.2 Contractor has completed and properly installed all equipment including; inverters and ancillary equipment, racking components, panels (including wiring and grounding), BESS (if any), AC and DC wiring, controls, DAS, safety system, instruments, and relays, including any Owner Supplied Equipment in accordance with the Scope of Work and this Contract;

6.1.2.3 Instruments and relays have been calibrated in accordance with manufacturers' standards and guidelines and are functional as to the extent permissible prior to interconnection;

6.1.2.4 If any material changes have been made to the Design Engineering and Construction Documents, redlines of Design Engineering and Construction Documents have been delivered to, and are satisfactory to, Owner;

6.1.2.5 The Facility is ready for operation in accordance with the Utility Interconnection Requirements to the extent permissible prior to interconnection; provided, that (a) Contractor has not requested a permission to operate letter or any other letter that may be construed to permit the Facility to be "placed in service" for purposes of Section 48

of the Internal Revenue Code or otherwise requested permission to energize the Facility without Consent to PTO from Owner and (b) under no circumstances shall Contractor take any of the actions described in clauses (a)-(f) of Section 6.1.6 without Consent to Energize from the Owner;

6.1.2.6 no Contractor Event of Default has occurred and is continuing; and

6.1.2.7 Owner has delivered to Contractor a written certification stating that it has achieved the criteria to achieve Mechanical Completion.

6.1.3 Mechanical Completion Certificate. When Contractor believes that it has achieved the requirements of Mechanical Completion, Contractor will execute and deliver a certificate stating that the requirements for Mechanical Completion have been met (a "Mechanical Completion Certificate"). Concurrently with the delivery of the Mechanical Completion Certificate, Contractor shall deliver a report to Owner with sufficient detail to enable Owner to determine whether Contractor has achieved such requirements and addressing such other matters as Owner may reasonably request.

6.1.4 Achievement of Mechanical Completion. Within ten (10) Business Days of receipt of a Mechanical Completion Certificate, Owner will, at its sole discretion, inspect the Facility and either (a) deliver to Contractor a countersigned copy of the Mechanical Completion Certificate, or (b) notify Contractor in writing that such criteria have not been achieved, stating the reasons therefor. If Owner certifies that such requirements have been met, the date of Owner's receipt of the Mechanical Completion Certificate shall be deemed the date Mechanical Completion has been achieved (the "Mechanical Completion Date"). If Owner notifies Contractor that such requirements have not been met, Contractor will promptly undertake such action or work as necessary to achieve such requirements and shall then issue another Mechanical Completion Certificate to Owner stating that Contractor believes that such requirements have been achieved. Such procedure shall be repeated with the exception that Owner shall have five (5) Business Days to respond to any subsequent Mechanical Completion Certificate, until Mechanical Completion is achieved.

6.1.5 Consent to PTO. Owner may issue the Consent to PTO at its discretion. A decision by Owner not to issue the Consent to PTO shall not constitute an Owner default hereunder. If Owner, in its discretion, does not issue Consent to PTO within ten (10) days after the Mechanical Completion Date for any reason not caused by Contractor or a Subcontractor, such delay thereafter shall constitute an Owner Caused Delay.

6.1.6 Consent to Energize. Owner may issue the Consent to Energize at its discretion. A decision by Owner not to issue the Consent to Energize shall not constitute an Owner default hereunder. If Owner, in its discretion, does not issue Consent to Energize by the later of (i) within ten (10) days after the Mechanical Completion Date and (ii) within ten (10) days after the date Owner receives permission to operate from the Utility to synchronize the Project for any reason not caused by Contractor or a Subcontractor, such delay thereafter shall constitute an Owner Caused Delay. Until the date Owner delivers written Consent to Energize to Contractor, Contractor shall not (a) synchronize into a power grid for generating electricity to produce income; (b)

commence daily or regular operations of the Facility, such as providing uninterrupted energy output to the grid; (c) energize any inverters; (d) cause to have or seek to have any Utility issue a permission to operate letter or its equivalent for the Facility; (e) allow back feed power past medium voltage switchgear breaker; or (f) achieve "placed in service" status with respect to the Facility. If Owner fails or declines to respond within any of the aforementioned time periods, Mechanical Completion shall be deemed to have been achieved.

6.2 Substantial Completion.

6.2.1 Guaranteed Substantial Completion. Contractor shall use best efforts to ensure that Substantial Completion with respect to the Project will occur no later than the Guaranteed Substantial Completion Date, subject to extensions expressly set forth in this Agreement.

6.2.2 Criteria. "Substantial Completion" shall be achieved with respect to the Project when each of the following conditions have been met:

6.2.2.1 Mechanical Completion has been achieved and Owner has issued the Consent to Energize;

6.2.2.2 Contractor has concluded the applicable Acceptance Tests, in which Owner has accepted each Acceptance Test in accordance with Section 7.1.5 and Contractor has demonstrated the Facility's ability to meet the Nameplate Rating Minimum;

6.2.2.3 the System has been interconnected and synchronized in accordance with the Interconnection Agreement, and the System has received Permission to Operate from the Utility;

6.2.2.4 Contractor and Owner have agreed to the Punch List as described in Section 6.3.2;

6.2.2.5 With the exception of the remaining items set forth in the approved Punch List, all portions of the Facility have been completed, are being operated and maintained as contemplated by this Contract, and have been legally, safely and reliably placed in full commercial operations as set forth in this Contract and in accordance with the Standards of Performance, all Applicable Laws and to allow Owner or its Affiliate to be in compliance with the Project Documents;

6.2.2.6 Contractor has provided to Owner a copy of the Manufacturers' Warranties with respect to the Project, and any required assignments of warranty or similar rights required hereunder;

6.2.2.7 Contractor has delivered to Owner copies (or originals if required by Owner to comply with Applicable Laws) of all Contractor Permits pursuant to Section 2.18 to the extent requested by Owner;

6.2.2.8 Contractor has delivered to Owner all Lien releases and waivers as are required under Section 5.3.3;

6.2.2.9 Contractor has supplied the O&M Manual pursuant to Section 2.14 and has coordinated the form and substance of such O&M Manual with Owner, Owner's Authorized Representative, and any operation and maintenance service provider of the Facility;

6.2.2.10 Contractor has turned over all keys, magnetic keys cards, and other site access controls. Owner specified locks are in place;

6.2.2.11 Contractor has completed and delivered to Owner all the documentation (including any and all Punch Lists, drawings, start-up procedures, log sheets, settings, test results, quality assurance documentation, calibration sheets and other items satisfying the requirements set forth this Agreement and all Exhibits hereto);

6.2.2.12 All Substantial Completion requirements outlined in this Agreement and all Exhibits hereto have been delivered by Contractor to Owner or waived by Owner;

6.2.2.13 No Contractor Events of Default have occurred and are continuing;
and

6.2.2.14 Owner has delivered to Contractor a written certification stating that it has achieved the criteria to achieve Substantial Completion.

6.2.3 Substantial Completion Certificate. At such time as Contractor believes that it has achieved the requirements for Substantial Completion with respect to the Project, Contractor shall execute and deliver a certificate stating that the requirements for Substantial Completion have been met (a "Substantial Completion Certificate") to Owner. Concurrently with the delivery of each Substantial Completion Certificate, Contractor shall deliver a report (which shall include the relevant Acceptance Test Completion Notices), with sufficient detail to enable Owner to determine whether Contractor has achieved the requirements of Substantial Completion and addressing such matters as Owner may reasonably request.

6.2.4 Operation. During the time between delivery of the Substantial Completion Certificate and achievement of Substantial Completion, Contractor shall operate the Facility as per Owner's instructions and in accordance with Article 2; provided that, other than in the event of Contractor's negligence, fraud or willful misconduct, Contractor shall have no liability arising out of such operation, including any liability to Owner for any loss of Project revenue during such time period, so long as Contractor is operating the Project in accordance with and in compliance with this Contract, the Project Documents, all Applicable Laws, and Prudent Industry Practices or Owner's instructions; provided, further, that if any additional Work is required to achieve Substantial Completion, Contractor shall not be required to keep the Facility in operation to the extent such operation would interfere with, or delay Contractor in, achieving Substantial Completion.

6.2.5 Achievement of Substantial Completion. No later than ten (10) days after Owner has received a Substantial Completion Certificate in accordance with Section 6.2.3, Owner will either (a) deliver to Contractor a countersigned copy of the Substantial Completion Certificate, or (b) notify Contractor in writing that such requirements have not been met, stating the reasons therefor. If Owner certifies that such requirements have been met, the date of Owner's receipt of the applicable Substantial Completion Certificate from Contractor as was accepted by Owner shall be deemed the date Substantial Completion has been achieved (the "Substantial Completion Date"). If Owner notifies Contractor that such requirements have not been met, Contractor will promptly take such actions as necessary to achieve such requirements, and shall then issue to Owner another Substantial Completion Certificate (and, if the reason for such failure is the failure to achieve the requirements set forth in Section 6.2.2.1, another Acceptance Test Completion Notice). Such procedure shall be repeated as necessary, with the exception that Owner shall have five (5) Business Days to respond to any subsequent Substantial Completion Certificate, until Substantial Completion is achieved. If Owner fails or declines to respond within any of the aforementioned time periods, Substantial Completion shall be deemed to have been achieved.

6.3 Punch List.

6.3.1 Punch List Items. The punch list (the "Punch List") shall include all items of Work that (a) shall not interrupt, disrupt or interfere with the safe and reliable use, ownership or operation of any part of the Facilities, (b) which do not exceed 5% of the Contract Price in the aggregate and (c) remain to be performed or corrected in respect of the Facility after Substantial Completion has been achieved and the projected cost of completing each item listed.

6.3.2 Punch List. No later than fifteen (15) Business Days prior to the then-scheduled date of Substantial Completion for the Project, Contractor shall prepare and deliver to Owner a Punch List. Owner shall review such list and provide a list of any items not listed therein. In the event Contractor disputes any of the items included in the Punch List at such date, Contractor must proceed with the performance of any Work associated with the disputed Punch List items. Owner may add or remove Punch List items until the date of issuance of the applicable Substantial Completion Certificate.

6.3.3 Completion of Punch List Items. Owner will maintain and update the Punch List after the Risk Transfer Date. Once the Punch List is agreed upon by the Parties, Contractor shall coordinate with Owner to begin work to complete the items thereon. If any item is omitted from the Punch List for any reason (including inadvertence, failure to discover, oversight or latent conditions), agreement as to the Punch List by the Parties shall not preclude items from subsequently being added thereto. Contractor shall complete all of the items listed in the Punch List within 100 days from Substantial Completion (subject to extension in the event of any Owner Caused Delay or Force Majeure condition), otherwise Owner may withhold one hundred and fifty percent (150%) of the projected cost until Contractor has completed such item.

6.4 Final Completion.

6.4.1 Criteria. "Final Completion" shall be achieved with respect to the Project when each of the following conditions have been met:

6.4.1.1 Substantial Completion has been achieved;

6.4.1.2 Contractor has completed all Punch List items (except for such items that Owner has undertaken in accordance with Section 6.3.3) or the Parties have entered into a written agreement resolving any outstanding Punch List items and any compensation thereunder has been paid by Contractor in accordance with this Contract;

6.4.1.3 Contractor has delivered to the Owner stamped final as-built civil and electrical (AC and DC) drawings of the Facility, which shall include Owner's receipt of copies of all signed approvals needed from any Government Authority with respect to the completion of construction of the Facility in accordance with the Permits;

6.4.1.4 Contractor has paid for or returned to Owner at the applicable Site all spare parts that Contractor may have used as set forth in Section 2.14;

6.4.1.5 Contractor has cleaned the Facility and the Site to Owner's satisfaction, including removal of dirt and grime, and performed all other obligations pursuant to Section 2.28;

6.4.1.6 all Contractor equipment and all of Contractor's construction materials, supplies, personnel, debris, rubbish, and foreign material have been removed from the Site and other areas disturbed by the Work;

6.4.1.7 Contractor has delivered to Owner copies (or originals if required by Owner to comply with Applicable Law) of all additional Contractor Permits that have been obtained since the applicable Substantial Completion Date, if any;

6.4.1.8 Contractor has delivered to Owner all Lien releases and waivers as are required under Section 5.3.3;

6.4.1.9 Contractor has paid Owner or Owner has set-off or deducted any other amounts required to be paid by Contractor; and

6.4.1.10 no Contractor Event of Default has occurred and is continuing.

6.4.2 Final Completion Certificate. At such time as Contractor believes that it has achieved the requirements for Final Completion with respect to the Project, Contractor shall execute and deliver a certificate stating that the requirements for Final Completion have been met (a "Final Completion Certificate") to Owner. Concurrently with the delivery of the Final Completion Certificate, Contractor shall provide a report with sufficient detail to enable Owner to determine whether Contractor has achieved such requirements and addressing any other matters that Owner may reasonably request.

6.4.3 Achievement of Final Completion. Within ten (10) days following Owner's receipt of a Final Completion Certificate, Owner may inspect the Facility and either (a) deliver to Contractor a countersigned copy of the Final Completion Certificate or (b) notify Contractor in writing that such requirements have not been achieved, stating the reasons therefor. In the event

Owner certifies that such requirements have been met, the date of Owner's receipt of such Final Completion Certificate from Contractor will be deemed the date Final Completion has been achieved (the "Final Completion Date"). In the event Owner notifies Contractor that such requirements have not been met, Contractor will promptly take such actions as necessary to achieve such requirements and shall then issue to Owner another Final Completion Certificate. Such procedure shall be repeated as necessary until it is agreed that Final Completion is achieved. Owner shall respond promptly to any Final Completion Certificate or revised Final Completion Certificate. If Owner fails or declines to respond within any of the aforementioned time periods, Final Completion shall be deemed to have been achieved.

7. ACCEPTANCE TESTING

7.1 Generally.

7.1.1 All Acceptance Tests shall be conducted in accordance with the requirements of Exhibit A and in compliance with all Applicable Laws.

7.1.2 Observation. Owner and Owner's Authorized Representatives, Financing Parties, and Utility shall be permitted to observe and verify all Acceptance Tests including preparations for and adjustments following any Acceptance Test, provided such persons comply with Contractor's reasonable safety and security protocols.

7.1.3 Notice to Owner. Contractor shall give Owner at least ten (10) Business Days written Notice in advance of the date on which Contractor intends to commence the initial performance of each Acceptance Test. Thereafter, Contractor shall give Owner at least five (5) Business Days' Notice of the commencement of all subsequent performances of the Acceptance Tests. Owner or its representative may be present during such tests, at Owner's sole cost.

7.1.4 Completed Acceptance Test. After Contractor believes that it has successfully performed each Acceptance Test, Contractor shall notify Owner in writing (such notice, an "Acceptance Test Completion Notice") accompanied with applicable test reports and results in accordance with Exhibit A. As soon as practicable after Owner's receipt of such notice (but in any event within fifteen (15) Business Days with regards to the Acceptance Tests), Owner will give written Notice to Contractor either accepting or rejecting such Acceptance Test. If Owner accepts such Acceptance Test or fails to respond during the required timeframe, then the date of Owner's receipt of the Acceptance Test Completion Notice from Contractor shall be considered the date on which Owner has accepted such Acceptance Test or the date on which the review period has expired. Such procedure (including notifications set forth in Section 7.1.3) shall be repeated until Owner accepts each Acceptance Test.

7.1.5 Adjustments and Modifications. After start-up, commissioning and the Acceptance Tests, Contractor shall make no material adjustment or modification to any equipment or system without Owner's prior written consent.

7.2 Delayed Acceptance Tests. For the avoidance of doubt, if Contractor is unable to complete an Acceptance Test due to (a) Force Majeure, or (b) an Owner Caused Delay, so long as Contractor has complied with the requirements set forth in Article 10 and/or Article 11, as

applicable, then and shall be entitled to seek a Change Order for schedule relief pursuant to Article 10 to the extent of any delay reasonably arising therefrom. Contractor shall re-perform the Acceptance Tests promptly upon the cessation of the Force Majeure event or Owner Caused Delay.

8. MINIMUM CAPACITY

Minimum Capacity. The Facility shall achieve the Nameplate Rating Minimum during a completed Acceptance Test in accordance with all of the requirements of the Commissioning Procedures or Test Procedures. Contractor shall do all things necessary or appropriate to achieve the Nameplate Rating Minimum, including exercising each and every repair or replacement alternative, and retesting. Contractor shall not be entitled to payment of the Substantial Completion Milestone until Contractor has achieved the Nameplate Rating Minimum for the Facility. Subject to the foregoing requirement to achieve the Nameplate Rating Minimum, adjustments to the Contract Price shall be made in the event that the Actual Nameplate DC Rating does not equal the Contract Nameplate DC Rating. If the Actual Nameplate DC Rating is less than the Contract Nameplate DC Rating (but above the Nameplate Rating Minimum), the Contract Price shall be adjusted according to the following formula: revised Contract Price = prior Contract Price x $[(\text{Contract Nameplate DC Rating} - \text{Actual Nameplate DC Rating}) / \text{Contract Nameplate DC Rating}]$. If the Actual Nameplate DC Rating exceeds the Contract Nameplate DC Rating, the Contract Price shall be adjusted according to the following formula: revised Contract Price = prior Contract Price x $[(\text{Actual Nameplate DC Rating} - \text{Contract Nameplate DC Rating}) / \text{Contract Nameplate DC Rating}]$.

9. CONTRACTOR WARRANTIES

9.1 Warranty. Contractor warrants, with respect to the Facility, that, (a) at the time of installation at the Facility, all Work shall be new and unused and, (b) for the duration of the Warranty Period, (i) all Work performed shall be in substantial accordance with the Standards of Performance; and (ii) other than with respect to the Major Equipment (which is separately addressed in Section 9.3 and warranted solely by the manufacturer thereof), such Work will be of good quality and free from material defects in workmanship and materials (the foregoing warranties constituting the "Warranty") for a period of one (1) year from the Substantial Completion Date. The expense of troubleshooting (excluding by any personnel dispatched by a manufacturer of any Major Equipment), refinishing, removal or replacement in connection with Contractor's Warranty obligations under this Article 9 shall be borne by Contractor and no adjustment of the Work schedule or increase in Contract Price shall be granted to Contractor with respect thereto.

9.2 Remedy for Breach of Warranty.

9.2.1 Generally. If, during the Warranty Period, Owner notifies Contractor that the Work or any part thereof fails to meet the Warranty or if Contractor otherwise becomes aware of any such failure, then, as Owner's sole and exclusive remedy therefor, Contractor will repair or replace such Work that does not comply with the Warranty and in accordance this Contract, Prudent Industry Practices and Applicable Laws. Contractor shall cooperate and coordinate with Owner and Owner's Authorized Representative with respect to any troubleshooting, repair or replacement

caused by the failure to meet the Warranty. Upon completion of any repair or replacement Work, Contractor will, at its own expense, perform such tests, if any, as are reasonably necessary to demonstrate the cure of the specific item of Work that failed to meet the Warranty.

9.2.2 Failure to Perform Warranty Work. Unless otherwise agreed in writing by the Parties, if Contractor fails, within a reasonable period of time, to repair or replace, or to complete any other necessary remedial action in respect of any Work that does not comply with the Warranty pursuant to Section 9.2, then Owner may, after giving ten (10) Business Day's prior written Notice to Contractor, take appropriate action to cause such repair or replacement to be effected at Contractor's expense, provided such work is performed in accordance with Prudent Industry Practices and Applicable Law. Owner's exercise of its remedies under this Section 9.2.2 shall not invalidate the Warranty, and Contractor shall pay all such reasonable, documented repair or replacement expenses within thirty (30) days after Owner's delivery of an invoice for the same.

9.3 Manufacturer Warranties. Contractor warrants that Contractor and all Subcontractors shall perform its responsibilities (including the Work) so that manufacturer's warranties for all Major Equipment procured as part of the Work remain in full force and effect and are enforceable by Contractor, and after assignment by Contractor to Owner upon Substantial Completion, Owner, in accordance with its terms. The warranties with respect to all Major Equipment shall be included as part of the O&M Manual. The Facility will be designed for a minimum operational life of 25 years for any permanent structures (specifically, concrete pads and foundations/screws), subject to normal wear and tear and Owner's proper maintenance of the Facility; provided that the operational life is not intended to, and does not, extend or otherwise modify any Warranty given by Contractor pursuant to the terms of the Agreement or the duration thereof. The minimum Manufacturer Warranties are set forth below:

- (a) Module Warranty – minimum twelve (12) year Limited Product Warranty covering materials and workmanship on their panels, as well as a Limited Power Warranty
- (b) Inverter Warranty – minimum five (5) year warranty covering defects caused by material or manufacturing faults.
- (c) Racking Hardware warranty – minimum ten (10) year materials limited product warranty covering defects in manufacturing and workmanship.

9.3.1 Contractor Cooperation. After assignment of Manufacturers' Warranties by Contractor to Owner upon Substantial Completion, Contractor shall cooperate with Owner and Owner's Authorized Representative with respect to, but shall not be responsible for, any troubleshooting, refinishing, repair or replacement of any Major Equipment, including coordinating (whether directly or through Owner, Owner's Authorized Representative or Owner's operation and maintenance service provider for the relevant Facility) any access of a Site by personnel, contractors or other agents of any Major Equipment manufacturer.

9.4 Subcontractor Warranties and Guarantees. The Parties acknowledge that the Warranty is given by Contractor to Owner in addition to any Subcontractor warranties and guarantees that Contractor assigns to Owner pursuant to Section 2.22.5, and that the expiration of the Warranty Period is only applicable to the Warranty and will have no effect on any assigned

Subcontractor warranties and guarantees that may be of longer duration. Contractor's Warranty obligations under this Article 9 shall not be adversely affected by any actual or possible Subcontractor warranties and guarantees.

9.5 Warranty Period Extension.

9.5.1 Extension for Corrected Work. Any Work re-performed and any part of the Facility that is reworked, repaired or replaced in satisfaction of Contractor's obligations in connection with the Warranty shall automatically be re-warranted by Contractor for a period equal to the later of (i) 12 months from the date such re-performance, rework, repair or replacement is completed; or (ii) the remainder of the Warranty Period.

9.5.2 Maximum Warranty Period. Notwithstanding anything in Section 9.5 to the contrary but subject to Section 9.5.3, in no event shall the Warranty Period extend past 12 months after the expiration of the Warranty Period (the "Warranty End Date"); provided, that, to the extent a Warranty claim is made prior to the Warranty End Date, Contractor shall be obligated to meet its repair obligations under Section 9.5 in respect of any such claim.

9.5.3 End of Warranty Inspection. Within five (5) Business Days following Owner's written request delivered to Contractor at least thirty (30) Business Days prior to the expiration of the Warranty Period with respect to the Project, Owner and Contractor shall jointly inspect the Facility to identify any uncured breaches of the Warranty. If during such inspection the Parties observe or discover any potential breach of Warranty, but the Parties are unable to determine the root cause of the potential breach, then prior to the expiration of the Warranty Period Owner may deliver to Contractor a Notice of such potential breach of Warranty. Following receipt of such notice and continuing until the Warranty End Date, Contractor shall continue to endeavor to determine the root cause of the potential breach of Warranty. If during such period, the root cause analysis demonstrates that an actual breach of the Warranty occurred, then Contractor shall remedy such breach of the Warranty in accordance with Contractor's obligations under Section 9.2. Owner shall provide Contractor with access to effect such remedy as provided in Section 2.21.3. If during such period, the root cause analysis fails to demonstrate that an actual breach of the Warranty occurred, then Contractor shall have no obligation to remedy such potential breach of the Warranty.

9.6 Conditions of Warranties. The Warranty and Contractor's obligations under this Article 9 do not cover, and Contractor shall have no obligation to effect, repairs and/or replacement to the extent required due to ordinary wear and tear, or due to damage (by casualty or otherwise) not caused by an act or omission of Contractor or any of its Subcontractors, or due to a failure to operate and maintain the Facility in accordance in all material respects with the O&M Manual and Prudent Industry Practice (except for repairs performed by Owner in accordance with Section 9.2.2 or Section 4.6).

9.7 NO OTHER WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THIS CONTRACT, CONTRACTOR MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES REGARDING THE WORK, AND ANY REPAIR OR REPLACEMENT THEREOF, AND THE PARTIES HEREBY DISCLAIM ANY IMPLIED WARRANTIES OR WARRANTIES REGARDING THE WORK, AND ANY REPAIR OR REPLACEMENT THEREOF, IMPOSED

BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH SHALL HAVE NO EFFECT UNDER THIS CONTRACT.

9.8 Survival of Warranties. The provisions of this Article 9 shall survive the termination of this Contract for the period specified herein; provided, that (a) Contractor shall not be liable or responsible for any work performed after termination by a Subcontractor under Owner's supervision, (b) if this Contract was terminated for a Contractor Event of Default, Contractor shall remain responsible for any work performed by any Subcontractor prior to such termination and (c) Contractor will be under no obligation or liability referred to in this Article 9 for any period longer than would have been applicable to Contractor under this Article 9 if this Contract had not been terminated.

10. CHANGES

10.1 Changes.

10.1.1 Owner may request by Change Order any change in the Work within the general scope of and consistent with this Agreement, whether such changes are modifications, alterations, accelerations, additions, or deletions. All such changes shall be made in accordance with this Article 10, in a form mutually agreed upon by the Parties, and shall be considered, for all purposes of this Agreement, as part of the Work. If Owner provides Notice to Contractor that Owner is requesting a change in the Work, then Contractor shall, as soon as practicable but in no event later than ten (10) days after receipt of Owner's request, prepare a draft change order, which shall include a detailed proposal for such change in the Work, together with an explanation for the basis thereof.

10.1.2 If Contractor and Owner reach agreement on all matters that constitute a Change Order, then the Parties shall execute a Change Order, and Contractor shall perform all changes to the Work included in such Change Order.

10.1.3 If the Parties do not agree on the effects of an Owner-requested Change Order on the Contract Price, the Guaranteed Dates, or on any other provision hereof, then Contractor shall, if directed by Owner pursuant to a written instruction, nevertheless proceed to perform such Change Order work for the compensation described in Section 10.4. For the avoidance of doubt, and provided Owner has directed Contractor to perform the Work as contemplated under this Section 10.1.3, the Parties' disagreement on the terms of a Change Order shall not entitle Contractor to suspend its performance of the Work.

10.2 Contractor Proposed Change Orders. The intent of this Agreement is to provide a fixed-price, date certain, turnkey agreement. Consequently, subject to the restrictions set forth below in this Article 10, Contractor shall be entitled to request a Change Order adjusting the Guaranteed Dates and/or the Contract Price under the following circumstances: (i) following occurrence of an Owner Caused Delay or delay attributable to parties other than Contractor or its subcontractors; (ii) following occurrence of an Owner Event of Default; (iii) following occurrence of a Change in Law or change in prevailing wage rates applicable to the Project; (iv) Contractor timely requests a Change Order for a Force Majeure event that justifies a Change Order pursuant

to the requirements of Section 11.3; or (v) any other event or circumstance for which Contractor is expressly entitled to a Change Order pursuant to terms of this Agreement. Change Order requests made under this Section 10.2 must describe with particularity the event or circumstances entitling Contractor to relief under this Section 10.2 and the impact of such event or circumstance on Contractor's time and/or cost to perform the Work and must be accompanied by documentation to support the claim. For the avoidance of doubt, the Contract Price may also be adjusted (up or down) in accordance with Article 8.

10.3 Exceptions to Contractor Entitled Change Orders. Contractor is not entitled to a Change Order under Section 10.2:

10.3.1 if Contractor fails to deliver a Change Order request to Owner in writing pursuant to Section 10.2 within fifteen (15) Business Days after the date Contractor became aware, or should have become aware, of the act, event or condition giving rise to the delay in or increase in cost of performance (except in the case of a Force Majeure event, which is governed by the requirements of Section 11.3); or

10.3.2 to the extent that the event in question is attributable to Contractor's or its Subcontractor's omissions or defaults (including, without limitation, to the extent arising out of a suspension of this Agreement by Owner during the continuance of a Contractor Event of Default), or such event is not otherwise allowed to result in a Change Order because of an express restriction in this Agreement.

10.4 Compensation for Change Orders. In the event that (i) any Change Order directed by Owner affects the Work, or (ii) Contractor is entitled to an adjustment to the Contract Price for a Change Order pursuant to Section 10.2, there shall be an equitable adjustment of the payments and time of performance under this Agreement as agreed by the Parties, and such Change Order shall be Contractor's sole remedy in respect of the event or circumstance that triggered relief under this Article 10. If the Parties are unable to agree on the adjustment to the Contract Price to be made for a Change Order under this Section 10.4, Owner shall have the right to direct Contractor to perform the Work in such Change Order on a time and materials basis under the direction and supervision of Owner's Authorized Representative, and Owner shall pay Contractor an amount equal to the Direct Costs incurred, less Direct Costs avoided, plus 15% of such resulting amount, as the case may be, by Contractor to make such changes to the Work as full and complete compensation for the Change Order. Contractor shall provide Owner time cards, time sheets, invoices for materials purchases and other supporting information and documentation reasonably requested by Owner to support all such Direct Costs. Any disputes regarding Change Orders shall be subject to the dispute resolution provisions of Article 17.

11. FORCE MAJEURE

11.1 Force Majeure.

11.1.1 Definition. "Force Majeure" means any event defined below in section 11.1.2 that occurs after the Effective Date that is beyond the reasonable control, directly or indirectly, of the affected Party but only to the extent that: (a) such event, despite the exercise of diligence, cannot be reasonably prevented, avoided or overcome by the affected Party; (b) such event demonstrably prevents the actual performance by the affected Party of its obligations under or pursuant to this Contract or demonstrably increases the cost thereof; (c) the affected Party has taken all reasonable precautions, due care and measures to prevent, avoid or overcome the effect of such event on its ability to perform its obligations under this Contract; (d) such event is not the result of a breach or failure by the affected Party to perform any of its obligations under this Contract or any other Project Document; and (e) the affected Party has given the other Party Notice thereof in accordance with Section 11.3.1.

11.1.2 Force Majeure Events. The following events shall constitute Force Majeure; provided that they satisfy the requirements of Section 11.1.1: (a) acts of God (including earthquakes, or other natural catastrophes), (b) wars, riots, civil commotion, sabotage of a political nature or other civil action that blocks access to a Government Authority, (c) strikes, walkouts or other labor disturbances not primarily directed at Contractor or its Subcontractors, (d) the inability, despite the use of reasonable efforts, to obtain, in a timely manner, any Permit (including interconnection approval) necessary to enable the claiming Party to fulfill its obligations in accordance with this Agreement; provided that the delay or non-obtaining of such Permit is not attributable to the claiming Party and that the claiming Party has exercised its reasonable efforts to obtain such Permit; (e) Abnormally Severe Weather Conditions, (f) epidemics, pandemics, or quarantines, (g) late delivery of equipment or materials (unless caused by an act or omission of Contractor or any Subcontractor), (h) utility delay, or (i) price fluctuations with respect to materials, supplies, or components of equipment or other Work caused by an event of Force Majeure or otherwise of a material, unforeseen magnitude (provided Contractor makes reasonably diligent efforts to mitigate the impact of the same); provided, that the Parties acknowledge the existence of COVID-19 as of the Effective Date and that any COVID-19 related quarantine or stay-at-home order in place as of the Effective Date shall not constitute a Force Majeure; provided further, that, following Effective Date, any Government Authority mandated stay-at-home order or additional COVID-19 guidelines issued for the State in which the Project is located that causes Contractor to suffer a delay in the critical path progress of the Work shall constitute a Force Majeure. Contractor shall, and shall require its Subcontractors to, comply with all applicable federal, state and local issued COVID-19 guidelines while performing at the Site.

11.1.3 Events Not Force Majeure. Notwithstanding Sections 11.1.1 and 11.1.2, the following shall not constitute Force Majeure: (a) shortages or price fluctuations with respect to materials, supplies or components of equipment or other Work unless caused by an event of Force Majeure or unless of a material, unforeseen magnitude (provided Contractor makes reasonably diligent efforts to mitigate the impact of the same), (b) unavailability at the Site of necessary water and other utilities unless caused by an event of Force Majeure, (c) weather-related events other than Abnormally Severe Weather Conditions, (d) failure to make a payment of money in

accordance with the affected Party's obligations under this Contract, and (e) late delivery of equipment or materials caused by the acts or omissions on the part of Contractor or any Subcontractor.

11.2 Burden of Proof. The burden of proof as to whether a Force Majeure event has occurred shall be upon the Party claiming that such Force Majeure event has occurred.

11.3 Excused Performance. If either Party is rendered wholly or partially unable to perform its obligations under this Contract because of a Force Majeure event, or if the cost of performing its obligations has materially increased because of a Force Majeure event, such Party shall be entitled to cost and/or schedule relief as provided in this Contract; provided, that:

11.3.1 the affected Party shall, as soon as reasonably practicable, but in no event later than five (5) Business Days following later of (i) the occurrence of such alleged Force Majeure event and (ii) the affected Party's learning that such event would impact the affected Party, give the other Party written Notice describing the event that it alleges constitutes Force Majeure and an estimate of its likely duration;

11.3.2 thereafter regularly provide updates as to the Force Majeure matters set out above;

11.3.3 the suspension of performance or Change Order relief shall be of no greater scope and of no longer duration than is reasonably required by the impact of the Force Majeure event on the affected obligations under this Contract;

11.3.4 neither Party shall be excused from performing any of its obligations that are not affected by the Force Majeure event causing the suspension of performance;

11.3.5 as soon as reasonably possible, and in accordance with Prudent Industry Practices, the affected Party shall ensure the resumption of normal performance of this Contract after the cessation of such Force Majeure event or its effects; and

11.3.6 Failure to provide the Notice required by, and in strict compliance with, Section 11.3.1 shall constitute a waiver of all claims as a result of the event of Force Majeure to which the failure relates.

12. INDEMNIFICATION

12.1 Contractor's Indemnity. To the fullest extent permitted by Applicable Law, Contractor hereby assumes liability for and will indemnify, defend and hold harmless Owner, Owner's engineer and the Financing Parties, and (as applicable) each of their respective directors, officers, shareholders, limited liability company members, constituent partners, Affiliates, employees, subsidiaries, representatives and agents (collectively, the "Owner Indemnified Parties") from and against all liability (including strict liability), claims, suits, actions, costs (including attorneys' fees), expenses, losses, fines, penalties, assessments, or judgments (collectively, "Losses") that may be imposed on, incurred by or asserted against any Owner Indemnified Party in connection with, relating to or arising out of: (a) any breach or violation of

or default under this Contract or any Applicable Laws by, or (b) the fraud, willful misconduct, or negligent acts or omissions of, in each case of (a) and (b), to the extent of the fault, act or omission of Contractor or any other Contractor Person; provided, however, that in no event shall Contractor be obligated under this Section 12.1 to the extent such Losses arises due to the negligence, fraud, or willful misconduct of an Owner Indemnified Party.

12.2 Intellectual Property Indemnity.

12.2.1 No Infringement. Contractor represents and warrants to Owner that any equipment provided by Contractor hereunder and all specifications prepared or to be prepared by or on behalf of Contractor in connection with the Facility will not infringe any Intellectual Property (hereinafter referred to separately and collectively as "Proprietary Interest") and no infringement of any Proprietary Interest has been asserted by any third party with respect to any equipment provided by Contractor hereunder or any specifications prepared or to be prepared by or on behalf of Contractor in connection with the Facility.

12.2.2 Indemnification by Contractor. Contractor agrees to indemnify, defend, and hold harmless the Owner Indemnified Parties from and against any and all Losses arising out of or relating to any infringement or the improper use of any Proprietary Interest which may occur in connection with Contractor's or any Subcontractor's or vendor's performance of the Work pursuant to this Contract.

12.2.3 Removal of Injunctions. If Owner is enjoined from completion of the Facility or any part thereof, or from the use, operation or enjoyment of the Facility or any part thereof as a result of any claim, legal action or litigation of the type described in Section 12.2.2, Contractor shall promptly arrange, in each case at no cost to Owner, to have such injunction removed, or to substitute non-infringing equipment or processes, or to modify such infringing equipment or processes or the Facility so they become non-infringing.

12.3 Owner's Indemnity. To the fullest extent permitted by Applicable Law, Owner hereby assumes liability for and will indemnify, defend, and hold harmless Contractor, Subcontractors and (as applicable) each of their respective directors, officers, shareholders, limited liability company members, constituent partners, Affiliates, employees, subsidiaries, representatives and agents (collectively, the "Contractor Indemnified Parties") from and against all Losses that may be imposed on, incurred by or asserted against any Contractor Indemnified Party in connection with, relating to or arising out of: (a) any breach or violation of or default under this Contract or any Applicable Laws by, or (b) the fraud, willful misconduct, or negligent acts or omissions of, in each case of (a) and (b), to the extent of the fault, act or omission of the Owner; provided, however, that in no event shall Owner be obligated under this Section 12.3 to the extent such Losses arises due to the negligence, fraud, or willful misconduct of a Contractor Indemnified Party.

12.4 Notice and Legal Defense. As soon as reasonably practicable after receipt by an Indemnitee of any claim or Notice of the commencement of any action, administrative or legal proceeding, or investigation in connection with an actual or potential claim as to which any indemnity provided for in Article 12 may apply, the Indemnitee will notify the indemnifying Party

(the "Indemnitor") in writing of such fact. The Indemnitor shall assume on behalf of the Indemnitee, and conduct with due diligence and in good faith, the defense thereof with counsel reasonably satisfactory to the Indemnitee; provided, that: (a) the Indemnitee shall have the right to be represented therein by advisory counsel of its own selection and at its own expense; and (b) if the defendants in any such action include both the Indemnitor and the Indemnitee, and if the Indemnitee shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to or inconsistent with those available to the Indemnitor, then the Indemnitee shall have the right to select separate counsel to participate in the defense of such action on its own behalf and at the Indemnitor's reasonable expense.

The Indemnitee shall at all times take all reasonable steps to minimize and mitigate the consequences of any claim to which any indemnity provided for in Article 12, as the case may be, may apply. Contractor shall not settle any claim to which any indemnity is provided for in Article 12 without the prior written consent of such Indemnitee.

12.5 Failure to Defend Action. If any claim arises as to which any indemnity provided for in Article 12 applies, and the Indemnitor fails to assume the defense of such claim upon receipt by the Indemnitor of notification thereof, then the Indemnitee against which the claim is instituted or commenced may, at the Indemnitor's expense, contest, or settle, such claim. All reasonable costs and expenses incurred by the Indemnitee in connection with any such contest, settlement or payment may be deducted from any amounts due or paid to the Indemnitor under this Contract, with (in the case of deduction) all such costs in excess of the amount deducted to be reimbursed by the Indemnitor to the Indemnitee within thirty (30) days following the Indemnitee's demand therefor.

12.6 No Limitation to Workers' Benefits. In any and all claims against any Indemnitee or any of their agents or employees by any employee of the Indemnitor, the indemnification obligation under Article 12 above, as the case may be, shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Indemnitor under any insurance policy or workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

12.7 Remedies Not Exclusive. The rights of indemnity shall not be exclusive with respect to any other right or remedy provided for in this Contract.

12.8 Survival of Indemnification. The indemnification provisions of this Article shall survive Final Completion Date and the termination of this Contract for a period of 3 years following such termination or conclusion of the Contract.

13. **CONTRACTOR EVENT OF DEFAULT; TERMINATION AND SUSPENSION**

13.1 Contractor Event of Default. A "Contractor Event of Default" will be deemed to have occurred if:

13.1.1 Contractor willfully ceases performance of all or substantially all of the Work or a significant element of the Work or willfully abandons any Site, for a period of five (5)

consecutive days and does not resume performance of the Work within five (5) days after receiving a written Notice from Owner;

13.1.2 Contractor assigns or attempts to assign its rights or transfers its obligations under this Contract or any part thereof to any third party (other than an Affiliate) without the prior written consent of Owner;

13.1.3 a proceeding is instituted against Contractor seeking to adjudicate it as bankrupt or insolvent, or to have a receiving or administration order made against it, and such proceeding is not dismissed within 60 days of filing, or Contractor goes into liquidation, or makes a general assignment for the benefit of its creditors, or a receiver, trustee or manager is appointed on account of the insolvency of Contractor, or Contractor files a petition seeking to take advantage of any other Applicable Laws relating to bankruptcy, insolvency, reorganization, winding up or composition or readjustment of debts or inability to pay debts that has a similar effect to any of these events or acts;

13.1.4 Contractor fails to comply with any Applicable Law or the EHSS Plan, where such failure has or will likely have a material adverse impact on Owner or the Project, and where Contractor fails to remedy such non-compliance within thirty (30) days of receipt of written Notice from Owner;

13.1.5 Contractor materially violates any provision of Section 18.14 and Contractor fails to remedy such non-compliance within thirty (30) days of receipt of written Notice from Owner;

13.1.6 Contractor fails to pay Owner or any Subcontractor any past due undisputed amount within thirty (30) days after receiving written Notice of such failure from Owner;

13.1.7 Contractor fails to achieve Mechanical Completion of the Project within thirty (30) days after the Guaranteed Mechanical Completion Date (subject to extension for Owner Caused Delay and Force Majeure conditions and otherwise as provided hereunder);

13.1.8 at any time prior to Final Completion, either (i) the issuer of the Performance Security no longer meets the requirements for the Performance Security and Contractor has not provided a replacement Performance Security acceptable to Owner within fifteen (15) Business Days after the earlier of (a) Contractor becoming aware that such issuer is no longer reasonably acceptable to Owner, or (b) receipt of demand for such replacement Performance Security from Owner, (ii) the Performance Security is amended or modified, in each case without the prior written consent of Owner unless as specifically permitted or required pursuant to this Contract, and Contractor has not provided a replacement Performance Security acceptable to Owner within fifteen (15) Business Days after receipt of demand for such replacement Performance Security from Owner, or (iii) any provision of the Performance Security ceases to be valid and binding on or enforceable against its issuer or such issuer breaches any of its obligations under the Performance Security and Contractor has not provided a replacement Performance Security acceptable to Owner within fifteen (15) Business Days after receipt of demand for such replacement Performance Security from Owner;

13.1.9 Contractor fails to obtain or maintain any insurance in material accordance with Section 2.25; or

13.1.10 Contractor fails or refuses to perform any other material obligation under this Contract or Contractor is in breach of any of its representations or warranties under this Agreement and fails to cure such failure, refusal or breach within thirty (30) days after receiving written Notice of the same from Owner (such period subject to reasonable extension where diligent attempt at cure is being made).

13.2 Termination for Contractor Event of Default. If a Contractor Event of Default occurs and is continuing, then Owner may by written Notice to Contractor immediately terminate this Contract, without limiting any other rights under this Contract. Owner may finish the Work by whatever method may be reasonable for Owner to adopt in its reasonable discretion under the circumstances, including overcoming delays, and, to the extent the costs actually incurred by Owner of so completing the Work to the standards required by this Contract (including payments already made to Contractor hereunder) exceed the Contract Price that would have been payable to Contractor under this Contract to carry out and complete the Work if termination for Contractor Event of Default had not occurred, Contractor shall be liable for such reasonable, documented amounts. All such amounts shall be paid by Contractor within thirty (30) days after receipt by Contractor of an invoice detailing such amounts. Upon a termination pursuant to this provision, Contractor shall be entitled to reasonable and demonstrable Direct Costs incurred by Contractor through the date of termination, less any amounts owed to Owner by reason of such Contractor Event of Default, and any amounts owed pursuant to the immediately preceding sentence.

13.3 Termination for Other Reasons.

13.3.1 Owner may terminate this Contract or any part hereof at any time prior to Mechanical Completion for its sole convenience (including with respect to a concealed condition described in Section 2.11.1) by written Notice to Contractor. Such termination will be effective no later than five (5) Business Days after Owner delivers to Contractor written Notice thereof.

13.3.2 Contractor may, by written Notice, terminate this Contract:

13.3.2.1 if Owner fails to pay to Contractor any Milestone Payment or any undisputed amount that is past due, and Owner fails to cure such default within thirty (30) days after Owner's receipt of a written Notice that Owner is in default due to such failure;

13.3.2.2 Owner assigns or attempts to assign its rights or transfers its obligations under this Contract or any part thereof to any third party except as permitted under this Contract;

13.3.2.3 a proceeding is instituted against Owner seeking to adjudicate it as bankrupt or insolvent, or to have a receiving or administration order made against it, and such proceeding is not dismissed within 60 days of filing, or Owner goes into liquidation, or makes a general assignment for the benefit of its creditors, or a receiver, trustee or manager is appointed on account of the insolvency of Owner, or Owner files a petition seeking to take advantage of any other Applicable Laws relating to bankruptcy, insolvency,

reorganization, winding up or composition or readjustment of debts or inability to pay debts that has a similar effect to any of these events or acts;

13.3.2.4 Owner is in material breach of any of its representations or warranties and fails to cure such breach within ten (10) Business Days after receiving written Notice of the same from Contractor (where such breach is capable of cure within such period); provided that if such failure cannot be cured within ten (10) Business Days, Contractor may not terminate this Contract therefor if Owner commences to cure such breach within such ten (10) Business Day period after such written notice and thereafter diligently pursues such cure to completion; or

13.3.2.5 If Owner fails to perform any other material obligation (other than any obligation for the payment of any undisputed amount), Contractor shall not be entitled to terminate this Contract but shall be entitled to a Change Order under Article 10.

13.3.3 Upon a termination under Section 13.3 after NTP has been issued, subject to Contractor performing all of its obligations in Sections 13.4.1 through 13.4.8 if such termination is pursuant to Section 13.3.1, Owner will pay to Contractor (a) the unpaid Milestone Payments due to Contractor for which Owner has received and accepted an Application For Payment within thirty (30) days of such termination and pro-rated for portions of the Work then completed and not covered by a previous Application For Payment (including the reasonable and demonstrable Direct Costs incurred by Contractor through the date of termination multiplied by one hundred and ten (110%)) plus (b) the reasonable and demonstrable Direct Costs demonstrably incurred by Contractor in protecting and making the Work safe (and of any other action) required under Section 13.4 plus (c) Contractor's reasonable and demonstrable Direct Costs of demobilization multiplied by one hundred and ten percent (110%). Notwithstanding the foregoing, if Owner terminates this Contract pursuant to Section 13.3.1 prior to the issuance of NTP with respect to the Project, Owner shall not be liable to Contractor for amounts in excess of any amount specified in any previously issued LNTP with respect to the Project. Payment required to be made pursuant to Section 13.3 shall be Contractor's sole and exclusive remedy with respect to a termination pursuant to Section 13.3. Contractor shall provide all documentation reasonably requested by Owner to support the payments set forth herein. Contractor waives any claims for damages including, without limitation, loss of anticipated profits, on account of such termination and agrees that the sole remedy of Contractor is to receive payment described in this Section.

13.4 Consequences of Termination. Upon any termination by Owner following a Contractor Event of Default, Owner may employ, but shall not be obligated to employ, any other Person ("Replacement Contractor") to finish the Work, and all Subcontracts shall be assigned to Owner or to such Replacement Contractor by whatever method Owner may reasonably request. In addition to any other legal or equitable rights or remedies that Owner may have, Contractor shall, with respect to the Project:

13.4.1 cease the Work, including not entering into any new Subcontracts nor be entitled to any Milestone Payment not previously accrued;

13.4.2 take all actions reasonably necessary, or that Owner may reasonably direct in accordance with Prudent Industry Practice, for the Work to be made safe and the protection and preservation of all equipment, materials, parts, supplies on the Site or the Work Areas and the Facility (in whatever stage of completion);

13.4.3 execute and deliver (and cause its Major Subcontractors (excluding any such Subcontractors that have already provided the Lien release referred to in Section 5.3.3 or 5.3.4) to execute and deliver) to Owner Lien Waivers and releases, in the forms attached hereto as Exhibit E, as applicable.

13.4.4 promptly turn over to Owner at the applicable Site a copy of all Design Engineering and Construction Documents in whatever degree of completion they exist on the date of termination (and title thereto shall pass to Owner to the extent it has not done so already);

13.4.5 deliver to Owner at the applicable Site any other information reasonably requested by Owner and in Contractor's possession or control, including design documents, drawings and any other Work (including work-in-process);

13.4.6 transfer to Owner any Permits, application or software passwords required to complete the Work and performance and scheduling data;

13.4.7 assign any lease agreements to Owner to enable Owner to take temporary possession and control of temporary facilities; and

13.4.8 complete and deliver to the applicable Site any materials, spare parts, or equipment relating to the Work.

13.4.9 Contractor, if so requested by Owner, shall provide Owner, any Replacement Contractor or any Financing Party, at Contractor's expense, and to the extent not otherwise having been granted and conveyed hereunder, with the right to continue to use any and all Intellectual Property and other patented and/or proprietary information that Contractor has rights to use, if any, which Owner deems necessary to complete the Project and operate and maintain the Facility.

14. CONTRACTOR PERFORMANCE SECURITY

14.1 Performance Security. As security for the performance of its obligations under this Agreement, Contractor shall, unless the requirement for a Performance Security has been waived by Owner or the date for providing the Performance Security has been extended by Owner, within fifteen (15) Days of the Effective Date, provide Owner with the Performance Security in form and substance, and from a suitably creditworthy issuer satisfactory to Owner. The Performance Security shall be issued in favor of Owner, its designated Financing Parties and/or to such other Affiliate of Owner as Owner may designate to Contractor. Unless otherwise specified in Annex I, the Performance Security shall be in an amount equal to one hundred percent (100%) of the Contract Price. Provided that the Performance Security meets all the requirements in this Article 14 and Annex I, Contractor may procure the Performance Security from a Major Subcontractor in lieu of Contractor providing the Performance Security directly. The Performance Security shall remain in full force and effect until the later of (a) the end of the Warranty Period, and (b) resolution

of all pending claims filed by Owner against Contractor under this Agreement prior to the end of the Warranty Period.

14.2 Assignment of Performance Security Document. Without Contractor's consent, Owner may assign all of its rights, title and interest in, to and under the Performance Security to any Affiliate of Owner, transferee of all of Owner's ownership interest in the Project or a Financing Party (or agent thereof) as collateral security.

15. REPRESENTATIONS AND WARRANTIES

15.1 Representations. Each Party hereby represents and warrants to the other Party as follows:

15.1.1 Due Organization. It is duly organized, validly existing and in good standing under the laws of its location of incorporation or formation, and has all requisite power and authority to own and operate its business and properties and to carry on its business as such business is now being conducted and is duly qualified to do business in any jurisdiction in which the transaction of its business makes such qualification necessary.

15.1.2 Due Authorization. It has full power and authority to execute and deliver this Contract and to perform its obligations hereunder. The execution, delivery and performance of this Contract have been duly authorized by all necessary action on the part of such Party.

15.1.3 Due Execution and Delivery; Enforceability. This Contract has been duly executed and delivered by such Party and is the legal, valid and binding obligation of that Party enforceable in accordance with its terms, except as such enforceability may be limited or denied by (a) applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights and the enforcement of debtors' obligations generally, and (b) general principles of equity, regardless of whether enforcement is pursuant to a proceeding in equity or at law.

15.1.4 Contractor Qualification. With respect to Contractor, Contractor has (either directly or through its Subcontractors) all the required licenses, authority, ability, skills, experience and capacity necessary to perform and shall diligently perform the Work in a timely and professional manner, utilizing sound engineering principles, project management procedures, construction procedures and supervisory procedures, all in accordance with Prudent Industry Practices. Contractor is a licensed contractor in the State of Nebraska and such license is in full force and effect as of the date hereof and shall be in full force and effect for the duration of this Contract.

16. LIMITATIONS OF LIABILITY

16.1 [Reserved].

16.2 Total Liability Limit. The liability of Contractor with respect to any and all claims, costs and damages arising out of or incurred by Contractor under any of the warranty provisions of this Contract, or arising out of the performance or non-performance of any other obligations of Contractor in connection with the Work, whether based in contract, warranty or tort (including

negligence), shall not, in the aggregate, exceed the Total Liability Limit Percentage, as amended for any Change Orders; provided, that the preceding limitation of liability shall not apply to, and no credit shall be issued against such liability for: (a) Contractor's indemnity obligations with respect to third parties set forth in Article 14; (b) claims by Owner which arise from the fraud, gross negligence, willful misconduct or strict liability of Contractor or its Subcontractors; (c) for material breach of any provision of Section 18.1 or Section 2.25; (d) in the event of termination of this Agreement for a Contractor Event of Default or (e) any loss or damage to the extent insurance proceeds are received from insurance required under this Contract, it being the Parties' specific intent that the limitation of liability shall not relieve the insurers' obligations for such insured risks.

16.3 Consequential Damages. In no event shall either Party be liable to the other Party by way of indemnity or by reason of any breach of this Contract or by reason of tort (including negligence or otherwise) for loss of profit, loss of use, loss of production, loss of opportunity, loss of contracts, data, interest payments, costs of replacement power, downtime, or claims from the Owner, Utility, the Financing Parties or their respective customers or for any consequential, incidental, indirect, special or punitive damages, in each case arising out of, in connection with or resulting from this Contract, whether any claim for such losses or damages is based on contract, warranty, tort (including negligence), strict liability or otherwise, and Owner hereby releases Contractor, and Contractor hereby releases Owner, therefrom; provided that the foregoing limitation shall not be applicable to and shall in no way limit the liability of Contractor or Owner: (a) with respect to its indemnification obligations to third parties arising under this Contract; (b) in cases of fraud, gross negligence or willful misconduct; or (c) for breach of any provision of Section 18.1.

17. DISPUTE RESOLUTION

17.1 Generally. If a dispute arises between the Parties regarding the application, interpretation, enforceability, validity, performance, or breach of this Contract or matters arising therefrom or relating thereto, whether based in contract, tort, law, equity or any other legal form (a "Dispute"), then the Parties shall first attempt in good faith to resolve any such Dispute by negotiation and consultation between themselves. In the event that such Dispute is not resolved on an informal basis within ten (10) Business Days after one Party provides Notice to the other Party of such Dispute, either Party may refer such Dispute to its senior management. If the Parties' senior management cannot resolve such Dispute within ten (10) Business Days, then such dispute may be submitted to be resolved by arbitration via the procedure set forth in Sections 17.2 through 17.4.

17.2 Arbitrators. The Dispute shall be heard by a panel of three neutral arbitrators, who shall be selected as follows: (a) the Party initiating the arbitration shall nominate an arbitrator in its demand for arbitration; (b) the responding Party shall nominate an arbitrator within fifteen (15) Business Days of its receipt of the demand; and (c) within fifteen (15) Business Days of the appointment of the two arbitrators, the third shall be appointed jointly by the first two arbitrators and this arbitrator shall serve as the chair of the arbitration. If the two Party-nominated arbitrators

cannot agree on the appointment of the chair within the designated period, the arbitral tribunal shall appoint the chair in accordance with the rules then in effect.

17.3 Location of Arbitration: Language. The seat of the arbitration shall be located at the Seat of Arbitration and all proceedings before the arbitrators shall be held in the Seat of Arbitration, or such other place as the Parties agree in writing, and shall be conducted in the English language.

17.4 Arbitration Award. The arbitration award shall be decided by majority opinion and issued in writing in the English language and shall state the reasons upon which it is based. The award issued by the tribunal shall be final and binding ~~and binding~~ on the Parties unless timely appealed or otherwise challenged, such appeal or challenge to be authorized to the maximum extent permitted by law. The tribunal shall not be empowered to decide any dispute *ex aequo et bono* or *amiable compositeur*. Further, the tribunal shall not have the right to award lost profits, consequential, incidental, indirect, special, treble, multiple or punitive damages. The award shall be paid within thirty (30) days after the date it is issued unless appealed to a court of competent jurisdiction, and such award shall be paid in Dollars in immediately available funds, free and clear of any Liens, Taxes or other deductions. A judgment confirming or enforcing such award may be rendered by any court of competent jurisdiction.

17.5 Fees and Costs. Each Party shall bear its own fees and costs, including its attorney's fees and costs and the costs associated with the arbitration.

17.6 Confidentiality. The arbitration shall be confidential; provided, that such matters may be disclosed without the prior consent of the other Party to lenders, Financing Parties, attorneys, experts, accountants, auditors, tax or other Government Authorities or as may be required by Applicable Law.

17.7 Obligations Continue. Notwithstanding the existence of any Dispute, the Parties shall continue to perform their respective obligations under this Contract unless the Parties otherwise mutually agree in writing.

17.8 Injunctive Relief.

17.8.1 Notwithstanding anything in this Contract to the contrary, nothing in this Contract is intended to, nor shall it, prevent the Parties from seeking injunctive relief at any time as may be available under law or in equity.

17.8.2 Except as expressly provided in Section 17.8.1, if either Party initiates or attempts to initiate judicial proceedings to resolve a Dispute that is within the scope of this Article 17 or to prevent or frustrate arbitration that has been or will be initiated pursuant to this Article 17, the other Party will be entitled to appropriate relief in court or from the arbitral tribunal to enjoin, stay, suspend, or otherwise prevent such judicial proceedings, whether or not arbitration has been or will be initiated in connection with the matter that is subject to arbitration pursuant to this Article 17. The Party seeking the injunction, stay, suspension, or similar relief will not be required to provide any undertaking or security in order to obtain such relief.

17.8.3 Neither Party may initiate an action seeking to annul an arbitration award in a court that is not within the seat of the arbitration. If either Party initiates or attempts to initiate an action seeking to annul an arbitration award in a court that is not within the seat of the arbitration, the other Party shall be entitled to appropriate relief in that court, a court within the seat of the arbitration, and any other forum, to enjoin, stay, suspend, or otherwise prevent the annulment action that is prohibited by this Section 17.8.3. The Party seeking the injunction, stay, suspension, or similar relief will not be required to provide any undertaking or security in order to obtain such relief.

17.9 Arbitrability. The terms of this Contract requiring arbitration are self-executing, and it is unnecessary for either Party to petition a court to compel arbitration in order to initiate arbitration.

18. MISCELLANEOUS

18.1 Confidentiality Requirements.

18.1.1 Confidential Information. From time to time, in connection with the Project and/or the Work, a Party (the "Disclosing Party") may disclose certain written information to the other Party (the "Receiving Party") that is "Confidential Information". All such information disclosed shall be Confidential Information only if it is clearly marked or otherwise designated in good faith as "CONFIDENTIAL" or only if it is reasonably understood to be confidential given the nature of the information and circumstances of disclosure; provided that Confidential Information does not include information that: (a) is now in the public domain or that later enters the public domain, through no action by a Party in violation of this Contract; (b) the Receiving Party can demonstrate was already in the Receiving Party's possession at the time of its disclosure, and that was not acquired by the Receiving Party on a confidential basis; (c) the Receiving Party can demonstrate was acquired from a Person not under an obligation of secrecy (whether legal or contractual) to the Disclosing Party; or (d) was independently developed without reference to the Confidential Information.

18.1.2 Non-Disclosure. The Parties agree that the Confidential Information shall be kept confidential by them during the term of this Contract and for a period of 2 years after the earliest of (a) Final Completion Date of the Project, or (b) the termination of this Contract. Notwithstanding the foregoing:

18.1.2.1 Owner may disclose the Confidential Information of Contractor:

- (a) to those of its officers, directors, employees, Affiliates, consultants, Financing Parties, lenders, potential lenders and advisors that need to know the Confidential Information in order to assist Owner in connection with the development and implementation of the Project or the enforcement of Owner's rights against Contractor;
- (b) to any Person to whom the Confidential Information is required to be disclosed pursuant to a Project Document;
- and (c) to any Person to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under this Contract or potential equity participants or purchasers of the Project or Owner and to any of that person's Affiliates, representatives and professional advisers. To the extent Owner discloses information of

Contractor marked "CONFIDENTIAL" to Persons other than its own officers, directors, employees, Affiliates, and professional advisors with a need to know such information in connection with this Agreement or performance of the Work, Owner shall provide written notice of the same to Contractor; and

18.1.2.2 Contractor may disclose the Confidential Information of Owner to those of its Subcontractors, officers, directors, employees, and Affiliates that need to know the Confidential Information in order to assist Contractor in performing the Work and in connection with the enforcement of Contractor's rights against Owner. To the extent Contractor discloses information of Owner marked "CONFIDENTIAL" to Persons other than its own officers, directors, employees, Affiliates, and professional advisors with a need to know such information in connection with this Agreement or performance of the Work, Contractor shall provide written notice of the same to Owner.

18.1.3 Each Party agrees to be responsible for the actions and disclosures of any of its representatives with respect to Confidential Information.

18.1.4 Compelled Disclosure. If a Receiving Party becomes legally compelled to disclose any of the Disclosing Party's Confidential Information, then the Receiving Party shall provide the Disclosing Party with prompt written Notice thereof so that the Disclosing Party may seek a protective order or other appropriate remedy at the Disclosing Party's risk and expense. The Receiving Party shall (a) furnish only that portion of the Confidential Information that is legally required, and (b) cooperate with the Disclosing Party's counsel to enable the Disclosing Party to obtain a protective order or other reliable assurance that confidential treatment shall be accorded to the Confidential Information.

18.2 Past Due Amounts. Any amount owed to either Party hereunder that is not paid when due under this Contract shall accrue simple annual interest, from the date such amount was due until the date such amount is paid, at the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus 2% and (b) the maximum rate permitted by Applicable Law.

18.3 No Waiver of Rights. Except as set forth herein or as may be specifically agreed in writing, the failure of either Party to insist upon the strict performance of any one or more of the terms, conditions and provisions of this Contract or to exercise any right herein contained or provided by law or equity, shall not be construed as, or constitute, a waiver, modification or relinquishment of the performance of such terms, conditions, provision or right(s), or of the right to subsequently demand such strict performance or exercise such right(s), and all such rights shall continue unchanged and remain in full force and effect. No waiver by either Party of any default by the other Party in the performance of any of the provisions of this Contract (i) shall operate or be construed as a waiver of any other or further default or defaults whether of a like or different

character; and (ii) shall be effective unless in writing duly executed by a duly authorized representative of such Party.

18.4 Assignment.

18.4.1 Generally. Except as expressly permitted herein, neither Party shall assign or otherwise transfer this Contract or any portion hereof, or any of the rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other Party; provided, however, that Contractor may assign this Contract, in whole or in part, to an Affiliate with prior notice to Owner.

18.4.2 Successors and Assigns. This Contract shall inure to the benefit of, and be binding upon, the successors and permitted assigns of the Parties.

18.4.3 Transferees of the Project. Notwithstanding the foregoing, without the consent of Contractor, Owner shall be entitled to (i) transfer, pledge or assign this Contract or any right, benefit, or interest under this Contract, as security for any financing with any Financing Party; (ii) transfer or assign this Contract to any Person or entity succeeding to all or substantially all of the assets of Owner; (iii) assign its rights under this Contract to a successor entity in a merger or acquisition transaction; and (iv) assign this Contract, in whole or in part, and its applicable rights herein, without the consent of Contractor, to any Affiliate or the Financing Parties.

18.5 Financing.

18.5.1 Consent to Collateral Assignment. With respect to an assignment pursuant to Section 18.4, Contractor acknowledges and agrees that, upon receipt of written direction by a Financing Party, and notwithstanding any instructions to the contrary from Owner, Contractor will recognize Financing Party, or any third party to whom Financing Party has reassigned the rights of Owner under this Contract, as the proper and lawful counterparty under this Contract and fully entitled to receive the rights and benefits of Owner hereunder so long as Financing Party (or its assignee) performs the obligations of Owner. Contractor shall tender performance of any and all other covenants by Contractor under this Contract to and for the benefit of Financing Party and as the Financing Party may direct in the future.

18.5.2 Contractor Cooperation. In connection with any assignment by Owner pursuant to Section 18.4, Contractor agrees (a) to execute any estoppels, reasonably requested by the Financing Parties; (b) to execute a consent to assignment in a commercially reasonable form provided by Owner (which may, by its terms, amend, supplement or modify certain terms and conditions of this Contract, as may be reasonably requested by any Financing Party); (c) to promptly furnish documents as may be reasonably requested by the Financing Parties, including financial statements for Contractor, product information and brochures, copies of invoices and receipts, affidavits, certificates of good standing, organization certificates and applicable authorizations for the execution and delivery of this Contract; (d) to promptly execute consents and other related documents to the extent and in the form reasonably required by the Financing Parties; (e) to provide such additional cooperation as Owner may reasonably request in connection with Owner's efforts to obtain financing for the Project, including execution of written consents

and acknowledgements, delivery of commercially reasonable certificates and other documents, and providing information, data and analysis, in each case, as may be reasonably requested by Owner or any Financing Party; and (f) to execute, and to use commercially reasonable endeavors to cause each Major Subcontractor to execute, a direct agreement with any Financing Party in a commercially reasonable form as reasonably requested by such Financing Party. Notwithstanding the foregoing, Contractor shall have no obligation to execute and deliver to any Financing Party any document that would, in Contractor's reasonable opinion, materially increase Contractor's risks or costs or materially reduce Contractor's rights under this Contract.

18.6 Governing Law. This Contract and any Disputes relating hereto (including non-contractual disputes and claims) shall be governed by, construed, interpreted and enforced, and the relations between the Parties shall be determined, in accordance with the laws of the state of Nebraska. Subject to Article 17, including the arbitration provisions thereunder, where the Parties have been prevented by Applicable Laws from exercising their rights pursuant to Article 17, the Parties shall submit to the exclusive jurisdiction of the courts of the state of Nebraska.

18.7 Survival. Any provision of this Contract that contemplates performance subsequent to termination of this Contract shall survive such termination and dissolution and continue in full force and effect for the limited purposes set forth therein. Without limiting the foregoing, the following provisions will survive the termination of this Contract: Section 2.15 (Intellectual Property), Article 9 (Contractor Warranties); Article 12 (Indemnification); Article 14 (Contractor Performance Security); Article 16 (Limitations of Liability); Section 18.1 (Confidentiality Requirements); and Section 18.14 (Compliance Terms & Conditions).

18.8 Notices. All notices permitted or required to be given under this Contract (each a "Notice") shall be a formal written letter issued by Owner's Authorized Representative or Contractor's Authorized Representative and shall be deemed duly given when sent by facsimile (with hard copy to follow), by international overnight courier, by e-mail of documents in .pdf format with the originals of those documents to follow by personal delivery. All Notices shall be delivered or sent to the Parties at their respective address(es) or number(s) shown below or to such other address(es) or number(s) as a Party may designate by prior written Notice given to the other Party in accordance with this provision:

18.8.1 If to Owner, the Owner Contact Details.

18.8.2 If to Contractor, to the Contractor Contact Details.

18.9 Entire Contract. This Contract contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes any and all prior and contemporaneous written and oral agreements, proposals, negotiations, understandings and representations

pertaining to the subject matter hereof, and other communications between the Parties or their Affiliates (or any agents of any thereof) prior to the Effective Date.

18.10 Amendments. No amendment, supplement or modification of or to this Contract shall be valid unless evidenced in writing and signed by a duly authorized representative of the Parties.

18.11 No Third Party Rights. This Contract and all rights hereunder are intended for the sole benefit of the Parties and, to the extent expressly provided, for the benefit of the Financing Parties and the Indemnitees, and shall not imply or create any rights on the part of, or obligations to, any other Person.

18.12 Relationship of the Parties. Nothing in this Contract shall be deemed to constitute either Party a partner, agent, employee or representative of the other Party, or to create any fiduciary relationship between the Parties. Contractor is and shall remain an independent contractor in the performance of this Contract, maintaining complete control of its personnel, workers, Subcontractors and operators required for performance of the Work.

18.13 Counterparts. This Contract may be executed in two or more counterparts, and by each Party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Contract by e-mail attachment or telecopy shall be an effective mode of delivery.

18.14 Compliance Terms and Conditions.

18.14.1 Anti-corruption.

18.14.1.1 Contractor shall comply with all applicable anti-corruption, anti-money laundering, anti-terrorism and economic sanction and anti-boycott laws, including the U.S. Foreign Corrupt Practices Act (15 U.S.C. §§ 78dd-1, et seq.).

18.14.1.2 Contractor represents and warrants that it has not, and that it has no evidence of any kind that any of its owners, controlling shareholders, directors, officers, employees or any other Person working on its behalf (including any of its subsidiaries, Affiliates, Subcontractors, consultants, representatives or agents) has, either directly or indirectly: (a) made or received a Prohibited Payment with respect to the Work; or (b) engaged in a Prohibited Transaction with respect to the Work.

18.14.1.3 Contractor shall not, and shall take all reasonable steps to ensure that none of its owners, controlling shareholders, officers, employees and other persons working for it on the Work (including any of its subsidiaries, Affiliates, Subcontractors, consultants, representatives or agents), directly or indirectly, make, promise or authorize the making, of a Prohibited Payment or engage in a Prohibited Transaction with respect to the Work or share or promise to share its fees or any other funds it receives from Owner or in respect of the Work with any Government Official.

18.14.1.4 Contractor shall promptly report to Owner any Prohibited Payment or Prohibited Transaction of which it obtains knowledge, or has reasonable grounds to believe occurred, in respect of the Work.

18.14.1.5 Contractor agrees that, if Owner has any reasonable grounds to believe that a Prohibited Transaction has taken place or a Prohibited Payment has been made in connection with the Work, it shall cooperate in good faith with Owner in determining whether such a violation occurred by taking necessary measures, which could include engaging an independent third party to investigate the matter and to provide a written report of its findings to the Parties.

18.14.1.6 If Owner reimburses Contractor for any lodging, meals, travel or other expenses (other than as part of the Contract Price), Contractor shall be reimbursed by Owner only for reasonable expenses for its employees or for such expenses incurred on behalf of third parties when supported by actual, accurate and reasonably detailed third-party invoices. Where Government Officials are involved, the request for reimbursement shall be accompanied by a written statement of the details of the expenses and an explanation of the purpose of the expenses, the reason that the participation of such officials was necessary, and the names of those in attendance and their employment or business affiliation.

18.14.2 Forced Labor.

18.14.2.1 Contractor shall, and shall cause each Subcontractor to, maintain in effect policies and procedures designed to ensure there is no Forced Labor in its operations or supply chains or in the operations and supply chains of any sub-subcontractor or supplier, and notify Owner promptly and cure any occurrence of Forced Labor in such operations or supply chains. Contractor shall, and shall cause each Subcontractor to, promptly and diligently investigate all reasonable inquiries of Owner, any Financing Party or any Governmental Authority regarding potential Forced Labor in its operations or supply chains. Without derogating from the foregoing, the Contractor shall, and shall cause each Major Subcontractor to, include this clause in all subcontracts and supply agreements entered into in respect of the performance of the Work, including but not limited to the procurement of all Major Equipment.

18.14.2.2 Contractor represents, warrants and covenants that it is now, and shall continue to be for the duration of the Project and the Performance of the Work, in compliance with all applicable Forced Labor Laws. Contractor shall promptly notify Owner upon becoming aware of any breach or alleged breach of any Forced Labor Laws by Contractor or any Subcontractor, or of any investigation, withhold release order or other enforcement action by any Governmental Authority in relation to Contractor or any Subcontractor or any material or equipment imported by any such Person in the performance of the Work or for incorporation in the Facility, and in such case Contractor shall immediately take all necessary steps to ensure that it or the applicable Subcontractor and any applicable material and equipment procured for the Work are brought into compliance with Forced Labor Laws. For the avoidance of doubt, Contractor shall not be

entitled to a Change Order to adjust the Guaranteed Dates or the Contract Price by reason of any breach, alleged breach, investigation, withhold release order or other enforcement action by any Governmental Authority under any Forced Labor Laws.

18.14.3 Code of Conduct. Contractor acknowledges receipt of a copy of Owner's code of conduct and understands the standards to which Owner expects Contractor and all of its Subcontractors to comply with when performing services for or on behalf of Owner.

18.14.4 Due Diligence. In order to mitigate potential exposure to risk, Contractor shall perform due diligence on Subcontractors as set forth in Sections 2.22.2.1 and 2.22.2 and on consultants or agents it employs in the performance of the Work or to provide services to the Facility to ensure that such parties comply with the provisions of Section 18.14.

18.14.5 Compliance Certificates. Contractor agrees that it will, at the request of the Owner, but at least annually, provide Owner a written certification that it is in compliance with Section 18.14.

18.15 Mutuality of Drafting. This Contract shall not be construed in favor of or against either Party as a consequence of one Party having had a greater role in the preparation of this Contract, but shall be construed as if the language were mutually drafted by both Parties with full assistance of counsel.

18.16 Language. This Contract is made and shall be construed in English. All Notices to be given by any Party hereunder and all other communications and documentation relating to this Contract, shall be in English (unless otherwise expressly provided herein).

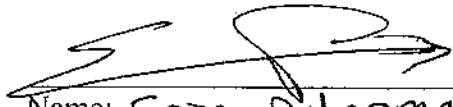
18.17 Announcements. Contractor shall not make or issue any press release or other public announcement or any other disclosure of any kind relating to this Contract, or the transactions contemplated hereby (including the existence of this Contract or the terms and conditions of this Contract) to any third party (other than as permitted by Section 18.1) without the prior written consent of Owner.

18.18 Void Provisions. If any provision of this Contract shall be held void, voidable, invalid or inoperative, no other provision of this Contract shall be affected as a result thereof, and the remaining provisions of this Contract shall remain in full force and effect as though such void, voidable, invalid or inoperative provision had not been contained herein.

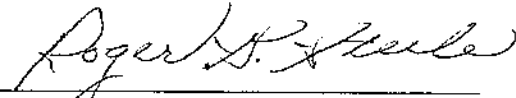
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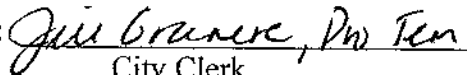
IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Contract to be executed by their duly authorized officers and to be effective as of the Effective Date.

GRNE-Nelnet, LLC

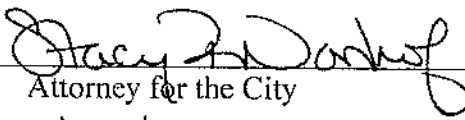
By: 
Name: Eric Peterman
Title: CEO
Date: 7-6-2023

CITY OF GRAND ISLAND, NEBRASKA

By: 
Title: Mayor
Date: 8-21-2023

Attest: 
City Clerk

The contract is in due form according to law and hereby approved.

By: 
Attorney for the City
Date: 8/21/23