



16-180

RESOLUTION No. _____

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

**RESOLUTION APPROVING AND AUTHORIZING THE CHAIR
OF THE BOARD TO EXECUTE A SOLAR OPERATIONS AND
MAINTENANCE AGREEMENT WITH SUNPOWER
CORPORATION, SYSTEMS**

WHEREAS, the County of Nevada has followed the process provided for in California Government Code §4217 to procure the services of a qualified Energy Services Company, and through that process has selected Climatec LLC (“Climatec”) to develop a Program of energy conservation measures and solar energy generation; and

WHEREAS, Climatec has developed said Program, which includes services to be provided by Sunpower Corporation, Systems (SunPower) to implement solar energy generation projects; and

WHEREAS, the Board of Supervisors has approved Agreements with SunPower for implementation of said solar generation projects and for SunPower to provide a performance guarantee for the resulting facilities; and

WHEREAS, a condition of said performance guarantee agreement is that the County maintain an Operations and Maintenance Agreement under which SunPower will perform preventive maintenance and inspections, testing, and corrective maintenance of said solar energy generation facilities.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Supervisors approves and authorizes the Chair of the Board to execute, in substantially the form attached hereto, that Agreement entitled “Agreement 5—Solar Operations and Maintenance Agreement” between the County of Nevada and SunPower Corporation, Systems for a term of five years and renewable for a second term of five years, for a total maximum term of ten years, at a cost to the County of \$47,363 for the first year, increasing 3% per year thereafter.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 26th day of April, 2016, by the following vote of said Board:

Ayes: Supervisors Nathan H. Beason, Edward Scofield, Dan Miller, Hank Weston and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 



Dan Miller, Chair

4/26/2016 cc: IGS*
AC*(hold)

8/11/2016 cc: IGS*
AC*(release)
SPCS

Agreement "5"
Solar Operations and Maintenance Agreement

OPERATIONS & MAINTENANCE AGREEMENT

<p><u>SunPower Corporation, Systems (“SunPower”)</u> Name and Title for Notices: Terry Oswald, VP Systems Performance & Operations</p> <p>Address: 1414 Harbour Way South Richmond, CA 94804 Phone: (510) 540-0552 terry.oswald@sunpowercorp.com</p>	<p><u>County of Nevada (“Customer”)</u> Name and Title for Notices: Tom Coburn, Facilities Manager</p> <p>Address: 950 Maidu Avenue Nevada City, CA 95959 Phone: (530) 470-2637 tom.coburn@co.nevada.ca.us</p>
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This Operations and Maintenance Agreement (this “Agreement”) is entered into as of April 26, 2016 (the “Effective Date”) between SunPower and Customer. Customer hereby engages SunPower and SunPower hereby accepts such engagement to perform certain maintenance services for the system or systems identified in Exhibit A hereof (the “System”), located on the site described in Exhibit A hereof (the “Site”) in accordance with the terms and conditions set forth below. Therefore, in consideration of the promises and undertakings set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SunPower and Customer (each a “Party” and together, the “Parties”), intending to be legally bound, hereby agree as follows:

1. **Term.** The term of this Agreement is specified Exhibit A attached hereto (the “Term”), unless sooner terminated in accordance with the provisions hereof. Except as provided herein, this Agreement may be extended or renewed only upon mutual agreement by the Parties.
2. **Services.**
 - (a) **System Services.** Throughout the Term, SunPower shall perform and provide all the system services pursuant to the specific service package selected by Customer as specified in Exhibit B.1 (the “System Services”).
 - (b) **Additional Services.** Throughout the Term, SunPower shall perform and provide all the additional services selected by Customer as specified in Exhibit B.2 (the “Additional Services”, and together with System Services, the “Subscription Services”).
 - (c) **Transactional Services.** In addition to the Subscription Services, SunPower may, throughout the Term, provide services not included in the Subscription Services on a transactional basis in accordance with the rate table set forth in Exhibit B.2 (“Transactional Services”, and together with Subscription Services, the “Services”). In the event Customer requests that SunPower provide Transactional Services or SunPower recommends that Transactional Services be provided in connection with the System, SunPower and Customer shall discuss the scope of such Transactional Services and Customer shall execute a purchase order for such Transactional Services. SunPower shall have no obligation to perform Transactional Services hereunder until a purchase order with respect thereto shall have been executed by Customer.
 - (d) **Emergency.** If SunPower or Customer learn of an event occurring at the Site or any adjoining property that poses actual or imminent risk of serious personal injury to any person or material physical damage to the System or to the interconnection facilities (an “Emergency”), each Party shall immediately notify the other Party thereof and Customer and SunPower shall jointly attempt to formulate a response. SunPower may, in the good faith determination of SunPower, take immediate preventative or remedial action as may be necessary to ensure the (i) continued operation of the System and (ii) safety of personnel and property at the Site. All such remedial or preventative actions shall be deemed Transactional Services approved hereunder and Customer shall issue a purchase order for such Transactional Services as soon as practicable.
3. **Commencement of System Services.** SunPower is to commence provision of System Services upon notice from SunPower to Customer, which notice shall be delivered no later than the Final Completion date of the System (as such event is contemplated in the equipment, procurement and construction agreement between Customer and SunPower) (the “Commencement Date”).
4. **Compensation.** Customer shall pay annually in advance, commencing on the Commencement Date hereof and on each anniversary of the Commencement Date, the Subscription Services Fee set forth in Exhibit A (the “Subscription Services Fee”). All Transactional Services performed hereunder shall be billed monthly in arrears for the Transactional Service performed during the previous month. Customer shall pay all amounts invoiced hereunder within thirty (30) days from the invoice date. Any amounts not paid when due hereunder shall bear interest at the rate of 1.5% per month (prorated on a daily basis) or the highest rate allowable by law, whichever is lower. In addition to any interest due on unpaid amounts hereunder and to any other right or remedy available to SunPower hereunder, Customer shall pay Customer all attorney’s fees and costs associated with the collection by Customer of any amounts due hereunder.

5. **Taxes.** SunPower shall invoice Customer separately for any sales, use or ad valorem taxes or other governmental taxes or fees imposed by any governmental authority in connection with the Services performed hereunder.

6. **Termination.**

(a) **Termination Without Cause.** Customer may terminate this Agreement, without cause, by giving the other Party at least 90 days prior written notice.

(b) **Termination For Cause.** If either Party hereunder defaults in the performance of any obligation hereunder and said default is not cured within 30 days after written notice thereof, the non-defaulting Party may terminate this Agreement for cause upon 30 days notice; provided, that if the default cannot reasonably be remedied within such 30 day period and the defaulting Party exercises diligent efforts to cure such default, the defaulting Party shall be afforded additional time to cure such default as may be reasonably required.

(c) **Termination for Non-Payment.** Notwithstanding the provisions of Section 6(b) above, if Customer fails to pay any amounts due hereunder SunPower may (i) suspend the provision of Services hereunder 30 days after notice thereof to Customer and (ii) terminate this Agreement for non-payment upon notice to Customer if such failure remains uncured for 30 days following notice thereof.

(d) **Termination Without Notice.** Notwithstanding any provisions of this Section 6 to the contrary, this Agreement shall terminate immediately and without the requirement for notice to be given, upon (i) the dissolution or termination of the corporate or partnership existence of a Party or (ii) the bankruptcy, insolvency, receivership, or assignment for the benefit of the creditors of a Party, or any general partner of such Party.

(e) **Consequences of Termination.** Termination of this Agreement shall not affect any rights or obligations between the Parties accruing prior to the date of such termination or which expressly or by implication are intended to survive termination. If either Party terminates this Agreement pursuant to this Section 6, Customer shall pay SunPower for all Transactional Services performed by SunPower prior to the effective date of such termination and (i) if SunPower terminates pursuant to clause (a), or if Customer terminates pursuant to clause (b) or (d), SunPower shall return to Customer the proportionate share of the Subscription Services Fee paid by Customer for the portion of the Term remaining following the effective date of such termination or (ii) if otherwise terminated pursuant to clauses (a), (b), (c) or (d), SunPower shall retain the proportionate share of the Subscription Services Fee paid by Customer for the portion of the Term remaining following the effective date of such termination.

7. **Manner of SunPower's Performance.** In performing and providing the Services, SunPower shall use its commercially reasonable efforts to (a) comply with all applicable federal, state and local laws, ordinances, orders, rules and regulations, including, without limitation, obtaining and maintaining all requisite permits and licenses pertaining to the Services and (b) take all reasonable measures to avoid injury to any person or property and to minimize interference with Customer's activities at the Site. All persons employed, contracted or otherwise utilized by SunPower in performing or providing the Services shall be fully qualified and skilled in their trade.

8. **Access To Site.** On each date of Service with respect to any Customer Site and for so long as any Services are provided by SunPower hereunder, Customer shall enable SunPower or any of its subcontractors or agents to gain free, unobstructed, access to the Site for the purpose of performing the Services hereunder and shall keep the Site free and clear from any encumbrances, obstructions or hazardous materials.

9. **Warranty.**

(a) **Service Warranty.** SunPower warrants for a period of one year from the date of performance of any specific Service hereunder (the "Warranty Period"), that such Services shall be performed in a good and workmanlike manner in accordance with industry practices generally acceptable in the location in which such Services are provided and all requirements of law (the "Service Warranty").

(b) **Exclusive and Limited Remedies.** Provided SunPower is notified of a defect covered by the Service Warranty within the Warranty Period, SunPower shall, at its option and its sole cost and expense, either repair, replace or re-perform any such non-conforming services. Such repair, replacement and/or reperformance constitutes Customer's sole and exclusive remedy for any breach of the Services Warranty, and shall not extend the Warranty Period.

(c) **Limitation and Exclusion of Warranties.** THE SERVICES WARRANTY SET FORTH IN THIS SECTION 8 IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE OR OTHERWISE. THERE ARE NO OTHER WARRANTIES, AGREEMENTS OR UNDERSTANDINGS, ORAL OR WRITTEN, WHICH EXTEND BEYOND THOSE SET FORTH IN THIS SECTION 8 WITH RESPECT TO THE SERVICES WHETHER THE CLAIMS OF CUSTOMER ARE BASED IN CONTRACT, IN TORT

(INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE. SunPower shall not be liable for breach of the Services Warranty to the extent such breach arises from: (i) modifications, alterations or repairs to the System not performed by SunPower; (ii) nonconformities to the extent caused by the System not being operated by Customer or any third party in accordance with any manuals and revisions thereto (including the replacement of worn or failed parts); or (iii) any damage to the System caused by accident, vandalism, malicious mischief, theft or attempted theft or any other Force Majeure Event (as defined below).

10. **Indemnification.**

(a) **Indemnification by SunPower.** SunPower shall indemnify, defend and hold harmless Customer, Customer's employees, agents, authorized representatives, and subsidiary agencies and instrumentalities (including any political subdivision thereof) (collectively the "Customer Indemnified Parties") from and against all claims, damages, losses and expenses (including attorneys fees, arbitral and litigation costs and charges from expert witnesses and consultants retained as a result thereof) to the extent that such claims, damages, losses, and expenses are alleged, asserted, or brought by any third party ("Third Party Claims") including Third Party Claims alleging direct, indirect or consequential damages arising out of or resulting from: (a) any negligent or intentional act or omission of SunPower or any person or entity directly or indirectly engaged by SunPower in the performance of the Work; (b) breach of this Agreement; and (c) SunPower's failure to comply with any applicable law, rule, or regulation. Notwithstanding any provision to the contrary, in no event shall SunPower be liable or required to indemnify Customer or any other party to the extent any claim, damage, loss, or expense is caused by Customer, any person or entity employed or engaged by Customer (except for SunPower or any person or entity directly or indirectly engaged by SunPower in the performance of the Work). In the event that any Third Party Claim alleges or asserts the acts of SunPower or any person or entity engaged directly or indirectly by SunPower to complete any portion of the Work, form the basis for such Third Party Claim, SunPower shall immediately indemnify and hold harmless Customer. In the event that, upon final adjudication or at the promulgation of an arbitral award, Customer, or another party for which SunPower is not liable hereunder, is found to be liable (in whole or in part) for such claim, loss, or damage, then Customer shall bear proportionate liability for such claim, loss, or damage including, without limitation, the proportionate reimbursement to SunPower of SunPower's damages less any of SunPower's attorney's fees, costs of defense, and court costs.

After receiving notice from Customer that a claim or mechanic's lien has been filed, SunPower will immediately take the steps necessary to discharge such claim or lien and provide proof that such claim or lien has been removed or resolved within thirty days after Customer provides notice of the same.

(b) **Liability of SunPower to Customer for Customer's damages.** SunPower shall be liable to Customer for Customer's damages primarily caused by SunPower's negligent or intentional acts or omissions. SunPower shall repair or replace any such damages caused by SunPower at no charge to Customer. Repairs and replacements shall be commenced within five (5) days of the incident that causes such damages to occur, unless Customer requests or agrees to an extension or another timeframe, and shall be diligently completed by SunPower. SunPower must immediately report each such incident to Customer's Authorized Representative. Damage to Customer's property observed by SunPower, whether or not resulting from SunPower's operations or negligence, shall be promptly reported by SunPower to Customer. Customer may, to the extent commercially reasonable, at its option, approve or otherwise direct the process of repair or replacement in accordance with Customer's best interest.

(c) **Indemnification by Customer.** Customer shall defend, indemnify and hold harmless SunPower, its officers, directors, employees and agents ("SunPower Indemnified Parties") from and against any claims, demands, damages, losses, fees, expenses, liabilities and penalties (including reasonable attorneys' and expert witnesses' fees), arising out of or relating to Customer's performance or nonperformance under this Agreement, but only to the extent caused by the negligent or other wrongful acts or omissions of Customer, its separate contractors, or any Person for whose acts or omissions Customer may be liable, regardless of whether any such claim, damage, loss or expense is caused in part by SunPower.

11. **Insurance.**

(a) **Customer's Insurance.** Customer represents that it is a self-insured Government agency. Limits of liability will be a minimum of \$1,000,000 per occurrence/\$2,000,000 annual aggregate. Coverage will include Products Completed Operations, Personal/Advertising Injury, and medical expense a minimum of \$10,000. Customer shall provide SunPower a certificate of insurance evidencing the insurance required in this Section upon request.

(b) **SunPower's Insurance.** All policies of insurance required by this Agreement shall remain in full force and effect throughout the life of this Agreement. The insurance shall have a provision that 30 days advance written notice will be given

to Customer before any termination or change in coverage protection, or reduction in coverage limits (except 10 days notice for non-payment of premium).

Failure to provide and maintain the insurance policies, endorsements, or certificates of insurance required by this Section shall constitute a material breach of this Agreement.

Liability insurance shall be payable on a "per occurrence" basis unless the Customer specifically consents to "claims made" coverage. If Customer does consent to "claims made" coverage, and if SunPower changes insurance carriers during the term of the Agreement, or during any extensions, then the following provisions shall apply:

- i) The retroactive date shall be on or before the date of the Agreement or the beginning of the Agreement performance by the SunPower.
- ii) Insurance must be maintained and evidence of insurance must be provided for at least two (2) years after completion of the Agreement.
- iii) If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a retroactive date prior to the Agreement effective date, SunPower shall purchase extended reporting coverage for a minimum of one (1) year after completion of the Agreement.

Liability insurance, including commercial general liability insurance and automobile liability insurance, shall name the Customer and its officers, agents, employees and volunteers as additionally insured, and in the event of insured loss SunPower's and the Subcontractor's liability insurance shall apply as primary insurance, and any other insurance maintained by the Customer shall be excess only and not contributing with SunPower's insurances. The additional insured endorsement shall be evidenced by form CG 20 10 11 85 or equivalent, including ongoing operations and completed operations subject to approval by the Customer's Risk Manager. SunPower's blanket additional insured endorsement is acceptable. Each policy required hereunder shall include a waiver of subrogation in favor of Customer and its officers, agents, employees and volunteers.

At all times, the SunPower shall maintain policies issued by companies with an Best's Rating of A-, VII or higher, according to the current A.M. Best's Key Rating Guide, or shall be issued by companies approved by the Customer's Risk Manager. In the event the Best's Rating falls below the rating required by this Section, then SunPower shall promptly secure policies which do comply with this Section.

SunPower shall maintain the following required insurance policies and shall provide Customer a certificate of insurance evidencing the insurance required in this Section 11 prior to execution of this Agreement. SunPower shall require that subcontractors maintain the same insurance provisions required in this Section 11.

- i) SunPower shall provide proof of broad form coverage for Commercial General Liability insurance with a limit of not less than one million dollars (\$1,000,000) per occurrence and general aggregate liability of two million dollars (\$2,000,000). Coverage will include Products Completed Operations, Contractual Liability, Property Damage, and Personal Injury.
- ii) SunPower shall provide Umbrella Liability of five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) aggregate.
- iii) SunPower shall provide proof of coverage for Personal, Business Rated, or Commercial Auto Liability Insurance for each vehicle used, including non-owned and hired automobiles. The coverage shall be combined single limit and shall include death, bodily injury, property damage, and uninsured and underinsured coverage, in an amount of no less than one million dollars (\$1,000,000).
- iv) SunPower shall provide Worker's Compensation Insurance as required by law and Employer's Liability with a limit of not less than one million dollars (\$1,000,000) each accident, one million (\$1,000,000) each employee, and one million (\$1,000,000) policy limit. SunPower hereby certifies that it is aware of the California Labor Code Section 3700, et seq, requirement that every employer be insured before commencing work, and that every contractor require this insurance as to all of its subcontractors before they commence work.

If SunPower fails to secure and maintain the required insurance, Customer shall have the right (without any obligation to do so, however) to secure the same in the name and for the account of SunPower, in which event SunPower shall pay the reasonable cost thereof (or Customer may deduct the same from amounts otherwise due SunPower hereunder) and SunPower shall furnish upon demand all information that may be required in connection therewith.

12. **LIMITATION OF LIABILITY.** IN NO EVENT WILL SUNPOWER BE LIABLE TO CUSTOMER OR CUSTOMER INDEMNIFIED PARTY UNDER THIS AGREEMENT OR OTHERWISE FOR INDIRECT, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. IN ADDITION, WHETHER ANY ACTION OR CLAIM IS BASED ON WARRANTY, CONTRACT, AND TORT OR OTHERWISE, UNDER NO CIRCUMSTANCES SHALL SUNPOWER'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO SUNPOWER UNDER THIS AGREEMENT; PROVIDED THAT (I) SUCH LIMITATION SHALL NOT APPLY TO ANY OBLIGATION OF SUNPOWER TO INDEMNIFY CUSTOMER IN ACCORDANCE WITH PARAGRAPH 11 ABOVE AND (II) SUCH LIMITATION SHALL NOT ACT TO REDUCE THE AMOUNT OF PROCEEDS RECOVERABLE UNDER ANY AND ALL INSURANCE POLICIES OTHERWISE AVAILABLE TO CUSTOMER.
13. **Assignment; Successors and Assigns.** Each Party's rights, duties and obligations under this Agreement shall not be assigned without the prior written consent of the other Party; provided, however, that SunPower may assign this Agreement to affiliates of SunPower without the prior written consent of Customer. Notwithstanding anything to the contrary herein, SunPower may delegate its duties hereunder to its subcontractors, provided that SunPower shall continue to be primarily responsible for all of its obligations hereunder.
14. **Notices.** All notices, demands and consents provided for in this Agreement shall be in writing and shall be given to Customer or SunPower at the address set forth in Exhibit A, or at such other address and/or to the attention of such other person as they individually may specify thereafter in writing. Such notice or other communication shall be: (a) mailed by United States registered or certified mail, return receipt requested, postage prepaid and deposited in a United States Post Office or a depository for the receipt of mail regularly maintained by the Post Office and be deemed given on the third (3rd) business day following such deposit; (b) sent by reputable overnight carrier (e.g., Federal Express, UPS, DHL, Purolator) and be deemed given when delivered to such carrier; (c) sent by facsimile and be deemed given on the date sent; or (d) delivered by hand and be deemed given on the date delivered.
15. **Force Majeure.** Other than with respect to failure to make payments due under this Agreement, neither Party shall be liable under this Agreement for delays, failures to perform, damages, losses or destruction, or malfunction of any equipment, or any consequence thereof, caused by, or due to any cause beyond its reasonable control, including, but not limited to, fire, earthquake, wind, flood, water, the elements, acts of God, third party labor disputes, utility curtailments, power failures, explosions, civil disturbances, vandalism, or governmental actions (any such event, a "Force Majeure Event"). If the performance of Services by SunPower is delayed due to inclement weather or other cause or circumstance beyond SunPower's control, SunPower shall be excused from its obligation to perform the Services and such performance shall be rescheduled to a future date.
16. **Amendments.** Except as otherwise herein provided, any and all amendments, additions or deletions to this Agreement shall be null and void unless approved by each of the Parties hereto in writing.
17. **Complete Agreement.** This Agreement constitutes the entire agreement between Customer and SunPower as to the matters set forth herein, and any and all previous agreements (written or oral) entered into between the Parties hereto with respect to the matters set forth herein shall be deemed merged herewith. In the event of a conflict between the terms of this Agreement and any exhibit attached hereto, the terms of this Agreement shall control.
18. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single instrument.
19. **Severability.** If any provisions of this Agreement shall be found to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and this Agreement shall be enforced to the greatest extent permitted by law.
20. **Independent Contractor.** SunPower shall perform the Services hereunder as an independent contractor and not as an agent or employee of Customer, its parent, subsidiaries or affiliates.
21. **Law and Venue.** This Agreement shall be governed in all respects by and construed in accordance with the laws of the State of California without regard to conflicts of law provisions that would mandate that application of the laws of another jurisdiction.

Any litigation between the parties shall be conducted exclusively in the state or federal courts in the State of California, and each Party hereby unconditionally submits to the exclusive jurisdiction of such courts.


IN WITNESS WHEREOF, in consideration for the mutual promises set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned have executed this Agreement by their duly authorized representatives as of the date first written above.

SUNPOWER CORPORATION, SYSTEMS:


Name: **William Kelly**
Title: **VP, Commercial Americas**


Dated: 5/27/14

COUNTY OF NEVADA:


Honorable Dan Miller
Chair, Board of Supervisors

Dated: 6-29-14

Attest:


Julie Patterson-Hunter
Clerk of the Board

Approved as to form:

By: 
County Counsel

Exhibit A

1. Site Locations:	<ul style="list-style-type: none"> a) Admin Center – 950 Maidu Ave, Nevada City, CA 95959 b) Wayne Brown CF – 925 Maidu Ave, Nevada City, CA 95959 c) Carl Bryan JH – 15434 CA-49, Nevada City, CA 95959 d) WWTP LOP – 10984 Riata Way, Auburn, CA 95602 e) Ranch – 16782 CA-49, Nevada City, CA 95959 																								
2. Description of System:	<ul style="list-style-type: none"> a) Admin Center – 469.8 kWdc, Carport b) Wayne Brown CF – 313.2 kWdc, Carport c) Carl Bryan JH – 90.3 kWdc, Roof Single Tilt d) WWTP LOP – 365.4 kWdc, Tracker e) Ranch – 1200.6 kWdc, Ground Fixed Tilt 																								
3. Subscription Services Fee:	<ul style="list-style-type: none"> a. Upfront Payment: \$0 b. Year 1 Fee: \$47,363 <table border="1" data-bbox="678 905 1349 1377" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="2" style="text-align: center;">O&M Schedule</th> </tr> <tr> <th style="text-align: center;">Year</th> <th style="text-align: center;">O&M (\$/year)</th> </tr> </thead> <tbody> <tr><td style="text-align: center;">1</td><td style="text-align: center;">\$47,363</td></tr> <tr><td style="text-align: center;">2</td><td style="text-align: center;">\$48,784</td></tr> <tr><td style="text-align: center;">3</td><td style="text-align: center;">\$50,247</td></tr> <tr><td style="text-align: center;">4</td><td style="text-align: center;">\$51,755</td></tr> <tr><td style="text-align: center;">5</td><td style="text-align: center;">\$53,307</td></tr> <tr><td style="text-align: center;">6</td><td style="text-align: center;">\$56,270</td></tr> <tr><td style="text-align: center;">7</td><td style="text-align: center;">\$57,968</td></tr> <tr><td style="text-align: center;">8</td><td style="text-align: center;">\$59,741</td></tr> <tr><td style="text-align: center;">9</td><td style="text-align: center;">\$61,589</td></tr> <tr><td style="text-align: center;">10</td><td style="text-align: center;">\$63,509</td></tr> </tbody> </table>	O&M Schedule		Year	O&M (\$/year)	1	\$47,363	2	\$48,784	3	\$50,247	4	\$51,755	5	\$53,307	6	\$56,270	7	\$57,968	8	\$59,741	9	\$61,589	10	\$63,509
O&M Schedule																									
Year	O&M (\$/year)																								
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7	\$57,968																								
8	\$59,741																								
9	\$61,589																								
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4. Term:	10 years, commencing on the Commencement Date																								
5. Monitoring Connection:	Cellular																								

Exhibit B.1
System Services

On the terms and conditions set forth in this Agreement, Customer elects to receive, and SunPower agrees to provide, System Services at the level indicated below:

CHECK ONE TO INDICATE THE SYSTEM SERVICES PACKAGE SELECTED BY CUSTOMER:

_____ SunPower Performance Monitoring Package

_____ SunPower Performance Basic Package

X _____ SunPower Performance Plus Package

System Service	Performance Monitoring	Performance Basic	Performance Plus
Customer Technical Support Hotline	✓	✓	✓
SunPower Performance Monitoring Website	✓	✓	✓
Performance Reports	Annual	Annual	Monthly
Daily Performance Monitoring and Notification	✓	✓	✓
Preventive Maintenance, Inspections & Testing		Annual	Annual
Performance Review			Annual
Corrective Maintenance			✓

Customer may select the Performance Monitoring, Performance Basic or Performance Plus System Services package. Services that are included in each package are indicated with a check mark (✓), or frequency. Services indicated with a check mark are continuous and have no annual limit, for example, "Customer Support Hotline." Services that do not have a check mark or frequency can be provided on a time and materials as part of the Transactional Services.

Description of available System Services

1. Customer Service Support Hotline:
 - a. Technical support line: 1-800-251-9728 (24 hours per day, 7 days per week)
 - b. Support technicians specialize in remote troubleshooting and providing step-by-step diagnosis instructions
2. SunPower Performance Monitoring Website:
 - a. Customer web site updated every 15 minutes for monitoring operational and environmental performance of the SunPower solar power system
 - b. All site data can be downloaded to Customer's computer in Microsoft Excel format
 - c. Customer will be provided with login credentials for use during the term of this Agreement

3. Performance Reports:
 - a. Actual vs. expected performance of the System for the period with a comparison of performance to a typical weather year
 - b. Environmental benefits will be estimated and included
 - c. Annual Operations and Maintenance records will be provided to Customer upon request
 - d. Optional custom reports can be supplied on a time and material basis
4. Daily Performance Monitoring and Notification:
 - a. Continuous monitoring of Customer's System via experienced solar monitoring technicians
 - b. Operational status (inverter and system on/off) and performance alerts (actual vs. expected performance) are continuously monitored by the SunPower Operations Center (SOC) system computers and monitoring technicians automatically receive alerts of system anomalies
 - c. Monitoring technicians identify and respond to system alerts including contacting Customer's system administrator
5. Preventative Maintenance, Inspections & Testing:
 - a. Array
 - i. Inspect PV modules for damage, discoloration or de-lamination
 - ii. Inspect mounting system for damage or corrosion
 - b. Trackers
 - i. Inspect tracker components for damage or corrosion
 - ii. Inspect tracker controllers for damage
 - iii. Lubricate tracker motors and jackscrews
 - iv. Verify proper operation and alignment
 - c. Inverter
 - i. Torque checks on critical electrical terminations
 - ii. Clean all filters and fans
 - iii. Inspect inverter pad and container
 - iv. All other preventive maintenance required by OEM warranty
 - d. Electrical BOS
 - i. Inspect ground braids, electrodes and conductors for damage
 - ii. Perform thermo-graphic analysis of combiner boxes, inverters, transformers, and conductor connections to buses, breakers or disconnects
 - e. Meteorological Station
 - i. Inspect weather measurement equipment for damage
 - ii. Clean pyranometers and reference cells
 - f. Site Conditions
 - i. Inspect drainage conditions
 - ii. Inspect vegetation for array shading or fire hazards
 - iii. Inspect safety conditions and proper signage
 - g. Maintenance Reporting
 - i. Record results of all inspections
 - ii. Take photographs of any damage or defects identified
 - iii. Inform Owner and warranty providers of all deficiencies identified
 - iv. Provide Owner with recommendations for corrective actions
6. Performance Review:
 - a. Review of the following System performance data with a SunPower performance engineer and proposal of a recommend action plan where applicable:
 - i. Expected vs. Actual system production (kWh)
 - ii. System Availability
 - iii. Recoverable Degradation
 - iv. Performance Index
 - v. Operation and Maintenance Records
 - vi. Safety, Accidents and Environmental Reporting
 - vii. Proposal of Recommended Actions
7. Corrective Maintenance includes:
 - a. On-site troubleshooting & diagnostics of all system components
 - b. Inverter and Data Acquisition System resets:
 - i. Unlimited remote resets (if capability enabled and connection available)
 - ii. Unlimited on-site resets for systems under SunPower warranty
 - iii. Up to two on-site resets per year for systems out of warranty

- c. Processing of warranty claims on behalf of Customer and verification of replaced equipment
- d. Management of repair and replacement for equipment out of warranty:
 - i. Full scope repair and replacement for equipment out of warranty can be provided as part of the Transactional Services
- e. Ongoing warranty support and representation of Customer's interest with System equipment manufacturers

The following non-exhaustive list of services is not included in the System Services:

- 1. Spare parts and materials
- 2. SunPower Performance Monitoring does not include maintenance of on-site DAS hardware
- 3. Corrective Maintenance for Performance Monitoring and Performance Basic Service Levels can be provided on a time and material basis by requesting a service quote from SunPower
- 4. Maintenance of medium voltage equipment such as transformers, switchgear and utility metering
- 5. System training
- 6. Engineering service
- 7. Roof cleaning and vegetation management
- 8. Module cleaning for Performance Monitoring and Performance Basic Service Levels
- 9. Security services
- 10. Inverter repair, unless covered under inverter warranty, in which case SunPower shall assist Customer in obtaining warranty service by manufacturer

Exhibit B.2
Additional Services

On the terms and conditions set forth in this Agreement, Customer elects to receive, and SunPower agrees to provide, the Additional Services indicated below:

INDICATE ANY ADDITIONAL SERVICES SELECTED BY CUSTOMER:

Additional Service	Minimum Package	Indicated Frequency
Energy Billing and Settlement	Performance Monitoring	Annual – All sites
Module Cleaning	Performance Monitoring	1x/year – All sites
Vegetation Management	Performance Monitoring	
IV-Curve Tracing	Performance Basic	
Module Thermography	Performance Basic	
Sensor Calibration	Performance Basic	Annual – All sites except Wayne Brown CF and Carl Bryan JH
Corrosion Protection	Performance Basic	
Transformer Preventive Maintenance	Performance Basic	
Switchgear Preventive Maintenance	Performance Basic	

Customer may select Additional Services provided that they have also selected the minimum System Services package as indicated above. Services that are included in the Additional Services are indicated with a frequency. Services that do not have a frequency can be provided on a time and materials basis as part of the Transactional Services.

Description of available Additional Services

1. Energy Billing and Settlement
 - a. SunPower will calculate amounts due under Power Purchase Agreements or Incentive Programs
 - b. For Power Purchase Agreements, invoices will be sent as PDF email attachments to designated contact
 - c. For Incentive Programs, SunPower will submit production data on behalf of Customer

2. Module Cleaning
 - a. Surface washing of all modules
 - b. Pressure washer settings not to exceed 1,500 PSI
 - c. Before and after photographs will be provided

3. Vegetation Management
 - a. For roof mounted systems, pull any weeds protruding from array
 - b. For ground mounted systems, mechanical mowing, herbicidal application, and/or sheep grazing may be used
4. IV-Curve Tracing
 - a. IV-curve tracing of all strings
 - b. Comparison to commissioning baseline and prior year results
 - c. Recommendations for further module analysis or power warranty claims
5. Module Thermography
 - a. IR camera analysis of all PV modules
 - b. Identification of potential hot spots
 - c. Recommendations for warranty claims and other corrective actions
6. Sensor Calibration
 - a. Field comparison of pyranometers and reference cells to calibrated sensor
 - b. Adjust field sensor to within $\pm 3\%$ of calibrated sensor and record changed parameters
 - c. SunPower may replace pyranometers in lieu of field calibration
7. Corrosion Protection
 - a. Elco-meter testing
 - b. Surface preparation
 - c. Zinc application
8. Transformer Preventive Maintenance
 - a. Maintain records of load current and voltage
 - b. Record liquid level and temperature
 - c. Test ground connections
 - d. Inspect surge arresters (if present)
 - e. External Inspection
 - f. Cabinet Interior Inspection
9. Switchgear Preventive Maintenance
 - a. Electrical terminal thermography
 - b. Visual inspection
 - c. Vacuum cleaning of cabinet interior

Exhibit B.3
Transactional Services

Charge Description	Amount	Notes
SunPower Engineering Support	\$150	Hourly rate charged for engineering labor used in the performance of engineering services, requested by Customer, and not included in the Subscription Services.
SunPower Field Service Support	\$125	Hourly rate charged for SunPower labor performed on site, requested by Customer, and not included in the Subscription Services.
Subcontracted Labor	Billed as incurred	Subcontracted labor performed on Site, requested by Customer, for work not included in the Subscription Services will be billed at cost plus 15%.
Travel Expenses	Billed as incurred	Includes transportation, lodging, meals and incidentals plus 15%.
Materials	Billed as incurred	Billed according to the SunPower list price.

Note: SunPower reserves the right to periodically adjust this rate schedule.