

SUNSYSTEM TECHNOLOGY MASTER SERVICE AGREEMENT

This TECHNOLOGY MASER SERVICE AGREEMENT (“Agreement”) is entered into as of _____, 2017, (“Effective Date”), by and between Contra Costa County, on behalf of its Public Works Department, (“Customer”), and SunSystem Technology, LLC, a California Limited Liability Company (“Asset Manager”). Customer and Asset Manager are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.” Customer desires to engage Asset Manager to perform the services described in the Scope of Work (“SOW”) set forth on Exhibit A attached hereto and incorporated herein for the solar energy facility (“SEF”) and the Asset Manager desires to perform the services described in the SOW pursuant to the terms and conditions of this Agreement. The Parties hereby agree as follows:

1. **DEFINITIONS.** The following defined terms have the meanings given below.
 - 1.1. **Agreement:** has the meaning given in the first paragraph of this agreement.
 - 1.2. **Asset Manager:** has the meaning given in the first paragraph of this Agreement.
 - 1.3. **Confidential Information:** any documents, electronic or written, pertaining to this Agreement that are marked as confidential.
 - 1.4. **Customer:** has the meaning given in the first paragraph of this Agreement.
 - 1.5. **Invoice:** A document detailing the cost all labor and materials used to perform a task or monthly fees to be applied to the Customer’s account.
 - 1.6. **Obligated Party:** has the meaning set forth in Section 5.1 below.
 - 1.7. **Protected Party:** has the meaning set forth in Section 5.1 below.
 - 1.8. **Related Persons:** individuals or entities comprised of a Party’s affiliates, directors, officers, agents, employees, contractors, subcontractors, vendors, members, managers, partners, shareholders, or representatives.
 - 1.9. **Representative:** Individual acting on behalf of a Party.
 - 1.10. **Services:** means the services set forth on the SOW to be performed by Asset Manager pursuant to this Agreement.
 - 1.11. **Subcontractor:** Company or individual selected by a Party to perform a certain task.
 - 1.12. **Solar Energy Facility or SEF:** The term used to reference an entire solar photovoltaic system, land it sits on, and all the components comprising the solar photovoltaic system.
 - 1.13. **Scope of Work or SOW:** has the meaning set forth in the first paragraph of this Agreement.

2. **SCOPE OF AGREEMENT**
 - 2.1. **Relationship of Parties.** Asset Manager is an independent contractor, whose relationship with Customer is defined solely by this Agreement. Nothing herein shall make any employee or Representative of either Party an employee or Representative of the other Party. Neither Party shall have any authority to make any commitment or incur any obligation for or on behalf of for the other Party, or to act as a Representative of the other Party, nor shall they be entitled to enter into any agreements with the other Party. No form of joint employer, joint venture, partnership, or similar relationship between the Parties is intended to be created by this Agreement.
 - 2.2. **Master Agreement Structure.** This Agreement commits the Customer to pay for all agreed-upon services in the SOW performed by the Asset Manager. Work in addition to the SOW that is performed by the Asset Manager, and Customer’s payment to the Asset Manager, will not take effect unless agreed upon by both parties separately from this Agreement. Changes in Services may be effected only through amendment to the SOW, made in accordance with Section 11.2.
 - 2.3. **Scope of Work.** Each SOW includes: (a) the name, location size and other material identifying features of the project; (b) the name and contact information of the Customer and Affiliates; (c) the specified Services to be furnished; (d) the start and end dates for Services; (f) insurance requirements for the facility and the Asset Manager; (g) complete pricing and price escalation, labor rates, expense reimbursement, and payment information not included in or varies from this Agreement or the SOW; and (h) specific exclusions and additions and all other information, conditions, and provisions the Parties deem specifically applicable to the project of the Services.
 - 2.4. **Supervision of Services.** All persons furnishing Services shall be under the direction, supervision and control of the Asset Manager, and shall be appropriately licensed, skilled, and experienced to perform the portion of Services assigned to

them. The Asset Manager shall: (a) provide of all Services unless otherwise stated in the SOW, and complete all Services in a workmanlike manner by competent and qualified personnel; (b) abide by safety protocols, security procedures, and policies of the Customer; (c) coordinate Services with the Customer’s employees, consultants, and subcontractors; and (d) comply with applicable provisions of federal and state employment regulations in connection with the Services.

- 2.5. **Insurance.** Asset Manager shall maintain, at Asset Manager’s expense, insurance coverage to include: (a) Worker’s Compensation coverage, as required by law; (b) Employer’s Liability coverage, with limits of at least \$1,000,000 per accident/employee or the relevant statutory limit, whichever is greater; (c) Professional Liability (errors and omissions) insurance of \$1,000,000, (d) General Liability with personal injury limits of at least \$1,000,000 per accident/\$2,000,000 aggregate and automobile coverage (owned, non-owned, and hired), with a combined single limit of \$1,000,000. Before furnishing Services for this project, Asset Manager shall furnish certificates of insurance to Customer evidencing the insurance specified in this Section 2.5. Such certificate must: (i) be signed by an authorized representative of the insurance carrier and (ii) state no cancellation of insurance will be affected without 30 days advance written notice to Customer. Asset Manager shall notify Customer within 30 days after receiving notice of any material changes in Asset Manager insurance coverage.
 - 2.6. **Benefits and Taxes.** (a) Customer shall not be required to withhold or pay any federal, state, or local income taxes, social security taxes, disability/unemployment insurance, or similar payroll taxes in connection to fees and reimbursements payable by Customer to Asset Manager under this Agreement. (b) Customer shall pay Asset Manager for all sales and associated taxes that are assessable or payable in respect of furnished Services unless Customer delivers a tax exemption certificate or other legal evidence demonstrating Customer is not required to pay such taxes. (c) Customer is not responsible for all federal, state, and local taxes measured by Asset Manager Income, including the income derived from the fees paid to Asset Manager pursuant to this Agreement. (d) Asset Manager shall defend, indemnify, and hold harmless Customer and its Affiliates from and against any liability (including penalties and interest) incurred by Customer for Asset Manager employer and employee taxes and Asset Manager income taxes.
 - 2.7. **Correction of Deficient Services.** If any Services are found not to conform to this Agreement, Asset Manager shall furnish conforming Services at no additional charge to Customer. Payment by Customer for Services shall not be deemed to constitute acceptance of Services conforming to this Agreement or relieves Asset Manager of its obligations.
 - 2.8. **Other Contracts.** Nothing in this Agreement shall prohibit or restrict Customer or Asset Manager from entering into other contracts or business relationships in connection with any project or other activity.
 - 2.9. **Examination of Records.** Customer may examine Asset Manager’s offices during regular business hours upon reasonable request notice to Asset Manager. Customer will be allowed access to Asset Manager’s project specific books, ledgers, documents, papers, receipts, time sheets and other records relating to any reimbursable expenses or wages relating to Services furnished or invoiced by Asset Manager to Customer.
 - 2.10. **Customer’s Other Contractors.** Asset Manager shall have no liability or responsibility for (a) acts or omissions of any work performed or any material or equipment provided by Customer or Customer’s other contractors/vendors (including those who have previously worked on, or will at any time work on, the Solar Energy Facility that is the subject of the SOW), or for (b) any warranty-related issues, except as may be specifically provided in the SOW.
 - 2.11. **Obligations of Customer.** Customer shall provide Asset Manager, at no charge to Asset Manager, full access to, and appropriate utilities and facilities at, the project site for all Services detailed in the SOW and this Agreement. Customer shall designate a representative to correspond with Asset Manager to coordinate all site visits. Customer shall be responsible for the technical accuracy and content of Customer-supplied documents and information.
3. CERTAIN REPRESENTATIONS AND WARRANTIES
- 3.1. **Asset Manager** represents and warrants to Customer that it and its Affiliates: (a) are in good standing in the jurisdiction(s) of their formation; (b) have full authority to enter into this Agreement and any SOW executed; (c) this Agreement is valid, legally binding and enforceable against Asset Manager and such Affiliates in accordance with its terms, subject to limitations on enforceability under the Bankruptcy Act and similar legislation; (d) there are no prior commitments or other obligations preventing Asset Manager or its Affiliates from fully performing all obligations under this Agreement; and (e) Asset Manager and its Affiliates will not enter into any agreement or obligation conflicting with any obligations under this Agreement.

3.2. **Customer** represents and warrants to Asset Manager: (a) has full authority to enter into this Agreement and any SOW executed; (c) this Agreement is valid, legally binding and enforceable against Customer and such Affiliates in accordance with its terms, subject to limitations on enforceability under the Bankruptcy Act and similar legislation; (d) there are no prior commitments or other obligations preventing Customer or its Affiliates from fully performing all its or their obligations under this Agreement; and (e) Customer and its Affiliates will not enter into any agreement or obligation conflicting with any obligations under this Agreement.

4. PAYMENT TERMS

4.1. **Payment.** (a) Customer shall pay the full amount of each Invoice from Asset Manager within thirty (30) days after its receipt, except to the extent Customer disputes an item in the Invoice. Payment of all Invoices shall be made by check to Asset Manager. If Customer disputes an item on an Invoice, Customer shall promptly notify Asset Manager of the reason why Customer is disputing such item. Asset Manager shall provide Customer with reasonable evidence to support the disputed item or shall adjust the Invoice to reflect the correctly payable amount. Customer shall not be required to pay any item in an Invoice which it is disputing in good faith, until the dispute is resolved.

4.2. **Invoices.** Asset Manager shall deliver written invoices to Customer, covering the month most recently ended, (a) indicating the portion of Asset Manager's annual fee payable for that period, (b) describing the Services furnished and associated cost in that period not covered by the annual fee, (c) describing expenses incurred in that period for which Asset Manager is requesting reimbursement. Applicable sales, use, and similar taxes shall be added to invoice amounts where required.

4.3. **Currency.** All references to amounts payable under this Agreement, SOW, and non-SOW services shall be in US Dollars.

5. CONFIDENTIALITY

5.1. **Generally.** During and after the term of this Agreement, neither Party (the "Obligated Party") nor their affiliates shall use, disclose, or communicate to any third person (except to enforce its rights under this Agreement) any Confidential Information belonging to the other Party (the "Protected Party") without the prior written consent of the Protected Party. However, an Obligated Party may disclose a Protected Party's Confidential Information to Affiliates to allow their performance of Services, or to protect its rights and duties under this Agreement, if such Affiliates have signed confidentiality agreements or are otherwise bound by confidentiality obligations at least as restrictive as those contained herein, prior to any disclosure of the Protected Party's Confidential Information. The Obligated Party will be liable for any breach of this Section by any of its Affiliates. The Obligated Party and its Affiliates shall use at least the same degree of care, but no less than a reasonable level of care, and shall take at least those measures it takes to maintain the secrecy of its own highly Confidential Information and avoid disclosure and unauthorized use of Confidential Information. The Obligated Party shall not, and shall cause its Affiliates not to, reverse engineer, disassemble or decompile any prototype, software program, customer relationship management software, processes, products or other matters embodying the Protected Party's Confidential Information except in furtherance of the Obligated Party's obligations under this Agreement.

5.2. **Other Permitted Disclosure of Confidential Information.** The Obligated Party may disclose the Protected Party's Confidential Information (a) as may be required under state or federal law, including without limitation the California Public Records Act (Cal. Gov. Code section 6250 *et seq.*) or (b) under valid subpoena, court order, or by any rule or regulation of a court of competent jurisdiction. In the event applicable law requires Obligated Party to disclose the Protected Party's Confidential Information, the Obligated Party, to the extent legally permitted, shall provide the Protected Party with prompt notice of any such requirement so the Protect Party, at its sole cost and expense, may seek an appropriate protective order regarding the Protected Party's Confidential Information.

5.3. **Return or Destruction.** All documents and other tangible objects containing or representing a Protected Party's Confidential Information, and all copies thereof, together with any and all analyses or other documents prepared by the Obligated Party or any of its Affiliates shall be and remain the sole property of the Protected Party. The Obligated Party shall return to the Protected Party, within ten business days of receipt of a written request by the Protected Party or upon the termination of this Agreement, whichever is earlier, all materials containing or reflecting any of the Protected Party's Confidential Information in the possession or control of the Obligated Party or its Affiliates; provided, however, the Obligated Party may, at its option in lieu of returning the Protected Party's Confidential Information to the Protected Party,

destroy all of the Protected Party's Confidential Information, and certify in writing to the Protected Party all such Confidential Information has been destroyed. Electronic copies of or containing Confidential Information that are automatically generated through data backup and/or archiving systems, and which are not readily accessible by either Party's business personnel, shall not be deemed to violate this Agreement, so long as such electronic copies are not disclosed or used in violation of the terms of this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall prohibit the Obligated Party's legal department or counsel from retaining copies, including electronic copies, of the Protected Party's Confidential Information as necessary to comply with regulatory recordkeeping requirements applicable to it or any internal recordkeeping policy or procedure to which it is subject. Such retained copy shall remain subject to the terms and conditions of this Agreement.

- 5.4. **Injunctive Relief.** The Obligated Party agrees and acknowledges that any violation or threatened violation of this Section 5 may cause irreparable injury to Protected Party and no remedy at law will afford the Protected Party adequate protection against or compensation for such injury. It is accordingly agreed that the Protected Party shall be entitled to seek an injunction or injunctions to prevent any such breach of this Agreement and to enforce specifically the terms and provisions thereof in any court of competent jurisdiction, in each case without the requirement of posting a bond or other security. Such right is in addition to any other remedy to which the Protected Party is entitled at law or in equity. Should legal action be required to enforce any provision of this Agreement and the Obligated Party is found to be in breach of this Agreement, the Obligated Party shall be responsible for reimbursing the Protected Party for reasonable attorneys' fees, court costs, and related expenses.
- 5.5. **Press Releases.** The Obligated Party shall not issue or authorize any press release, advertisement, or other public disclosure relating to this Agreement, without the prior written consent of the Protected Party, except as may be required to perform under this Agreement or as may be required by applicable law, rule, or regulation.
- 5.6. **Use of Customer Data.** Asset Manager may, from time to time, use certain anonymized data and metrics related to Services it provides to Customer including, but not limited to: total number of customers, statistics pertaining to aggregate or individualized service contracts (including output and efficiency measurements), and other data designed to help the Asset Manager demonstrate its capacity, market its services, or develop new products and services, including data reporting and management products.

6. OWNERSHIP RIGHTS OF DATA

- 6.1. **Ownership/Assignment.** All documents and drawings, including original drawings, estimates, schedules, technical data, specifications and disclosure forms (including any intellectual property interests therein), prepared by Asset Manager and are unique to this project or Customer, excluding Asset Manager's Confidential Information, shall become and remain the property of Customer immediately upon creation. Asset Manager shall make all data available to Customer for removal or destruction upon expiration or termination of this Agreement, or upon the completion of Services relating to this project. Asset Manager shall have no rights in any Customer data, except the right to retain copies of Customer data for Asset Manager records.
- 6.2. **Data Inaccuracies.** Customer acknowledges any transfer of information via an electronic medium by Asset Manager may be susceptible to the introduction of anomalies and errors, and may not be a perfect duplicate of the original data.

7. LIMITATIONS ON LIABILITY, INDEMNITIES, ETC.

- 7.1. **No Consequential Damages.** (a) In no event, whether as a result of breach of contract, tort liability (including negligence), strict liability or otherwise, shall either Party or any of its Affiliates, employees, contractors, subcontractors, vendors, members, partners, or shareholders be liable to the other Party or any of its Affiliates, or any third party beneficiary of this Agreement for special, indirect, punitive, exemplary or consequential damages of any nature whatsoever, including, but not limited to, loss of profits or revenue, loss of use of equipment or cost of substitute equipment, cost of capital or of facilities or services, down time costs, costs in unreasonable excess of estimates, loss of opportunity, loss of data, loss of good will and/or claims of customers of either Party for any such matters.
- 7.2. **Aggregate Limit of Liability.** Notwithstanding any other provision of this Agreement to the contrary, except in cases where (a) a Party engages in fraud; (b) either Party takes action that is materially beyond the scope of authority granted herein; or (c) upon the gross negligence or willful misconduct of either Party or its Affiliates that causes loss to the other Party, the

aggregate liability of either Party to the other Party and its Affiliates under this Agreement shall not exceed the sum of all fixed Service fees paid to Asset Manager during the one-year period immediately preceding the event which gave rise to the liability under this Section 7.2.

- 7.3. **Intent.** The Parties agree the provisions of this Section 7 shall continue in full force and effect notwithstanding the completion, termination, suspension, cancellation, or rescission of the Services or the termination or expiration of this Agreement.
- 7.4. **Disclaimer.** Except as expressly provided in this Agreement, no Party makes any representations, warranties, or guarantees to the other, either express or implied, with respect to the project, the principal project documents, the Services, or any other subject matter of this Agreement, and all Parties disclaim and waive all warranties implied by law.
- 7.5. **Indemnity by Asset Manager.** Asset Manager shall defend, indemnify, and hold harmless Customer and its Affiliates from and against all losses caused directly by: (a) a breach or default by Asset Manager of any of its material obligations under this Agreement, unless resulting from an act or omission of Asset Manager based on a good faith belief that Asset Manager was proceeding within the scope of its authority under this Agreement or in the best interest of Customer or the project; (b) any negligence or willful misconduct of Asset Manager in performing this agreement, provided Asset Manager shall not be required to reimburse or indemnify Customer or Affiliates for any Loss to the extent such loss is due to the negligence or willful misconduct of Customer, or a material breach or default of this Agreement by Customer.
- 7.6. **Indemnity by Customer.** Customer shall defend, indemnify, and hold harmless Asset Manager and its Affiliates from and against any and all losses caused directly by: (a) a breach or default by Customer of any of its obligations under this Agreement; or (b) any negligence or willful misconduct of Customer, provided Customer shall not be required to reimburse or indemnify Asset Manager for any Loss to the extent such Loss is due to the negligence or willful misconduct of Asset Manager, or a material breach or default of this Agreement by Asset Manager.
- 7.7. **Comparative Fault.** It is the intent of the Parties where fault is determined to have been joint or contributory by Customer and Asset Manager, each shall bear the proportionate cost of any loss attributable to such Party's fault.
- 7.8. **Claims for Indemnification.** (a) The Parties shall reasonably cooperate with each other with respect to resolving any indemnification claim or liability under this Agreement ("Indemnification Claim") with respect to which one Party is obligated to indemnify (the "Indemnitor") the other Party ("Indemnitee"), including making reasonable efforts to mitigate or resolve any Indemnification Claim or liability by a third party ("Third Party Claim"). (b) Written notice of an Indemnification Claim shall be made promptly by the Indemnitee's delivery of a written notice to the Indemnitor requesting indemnification and specifying the basis on which indemnification is sought and the amount of the asserted loss and containing (by attachment or otherwise) such information as the Indemnitee has concerning such Third Party Claim; provided however, failure to give such notification shall not affect the indemnification provided for hereunder except to the extent the Indemnitor has been materially and adversely prejudiced as a direct result of such failure.
- 7.9. **Defense of Third Party Claims.** (a) In the event of a Third Party Claim, the Indemnitor shall have fifteen (15) Business Days after receipt of a claim for Indemnification to notify the Indemnitee: (i) whether or not the Indemnitor disputes its liability to the Indemnitee with respect to such claim; and (ii) notwithstanding any such dispute as to whether or not the Indemnitor will, at its sole cost and expense, defend the Indemnitee against such a claim. (b) If the Indemnitor notifies the Indemnitee within the notice period that it will, at its sole cost and expense, defend the Indemnitee against such a claim, except as hereinafter provided, the Indemnitor shall actively and diligently conduct the defense of such Third Party Claim and take all steps necessary in the defense, prosecution or settlement of such claims or litigation, hold the Indemnitee harmless from and against all Loss caused by or arising out of such Third Party Claim, provide Indemnitee copies of all correspondence and related documentation in connection with the defense of the Third Party Claim. Notwithstanding the foregoing, the Indemnitor will not consent to the entry of any judgment or enter into any settlement with respect to a Third Party Claim except with the written consent of the Indemnitee. If the Indemnitor defends the Indemnitee in accordance with Section 7.9(a), the Indemnitee shall have the right to participate in, but not control, any such defense or settlement, at its sole cost and expense. (c) The Indemnitee shall have the right to control its own defense or settlement of Third Party Claims, at the Indemnitee's sole cost and expense, if in the opinion of the Indemnitee and its counsel, such Third Party Claim creates a material conflict of interest between the Indemnitee and the Indemnitor. (d) In the event: (i) an Indemnitee notifies the Indemnitor of an Indemnification Claim and the Indemnitor fails or elects not to assume the defense of the Third Party Claim ("Third Party Defense") in accordance with Section 7.9(a) or (ii) the Indemnitor is not entitled or required to assume the Third Party Defense pursuant to Section 7.9(c), the Indemnitee shall have the right, with

counsel of its choice, to defend, conduct and control the defense of the Third Party Claim in a reasonable and economic manner, at the sole cost and expense of the Indemnitor. In such case, the Indemnitor shall actively and diligently cooperate in the defense of the Third Party Claim. If the Indemnitee elects to exercise such right in this Section 7.9(d), the Indemnitor shall have the right to participate in, but not control, the defense or settlement of such claim at its sole cost and expense. (e) Except where the Indemnitor disputes its liability in a timely manner under this Section 7.9, the Indemnitor shall be liable, subject to the other provisions of this Section 7, for the amount of any Loss resulting from such a claim or defense. (f) The Indemnitee and the Indemnitor shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such claim and furnishing, without expense to each other, management employees of each Party, as may be reasonably necessary for the preparation of the defense of any such claim, or for testimony as a witness in any proceeding relating to such claim, provided that each Party shall use its commercially reasonable efforts, with respect to any Third Party Claim in which it has assumed the defense, to preserve the confidentiality of all confidential information and the attorney-client and work-product privileges. (g) If a patent, copyright or other intellectual property right is the subject of a Third Party Claim, the Indemnitor may, at its option and in satisfaction of its obligation under this Section, either secure Indemnitee's right to continue using the infringing material or replace or modify such infringing material so as to make it non-infringing without materially impairing its utility in either case at no cost to Indemnitee.

- 7.10. **Settlement of the Third Party Claims.** The Indemnitor shall not admit any liability with respect to, or settle, compromise or discharge, any Third Party Claim without the Indemnitee's prior written consent (not to be unreasonably withheld or delayed). If the Indemnitor assumes defense of a Third Party Claim, the Indemnitee shall agree to any settlement, compromise or discharge of a Third Party Claim the Indemnitor may justifiably recommend and, by its terms: (a) obligates the Indemnitor to pay the full amount of the liability in connection with such Third Party Claim; (b) includes an unconditional release of the Indemnitee from all liability with respect to such Third Party Claim; (c) relieves the Indemnitee from all obligations to undertake, or refrain from undertaking any other actions; and (d) does not admit to or constitute an admission of guilt, failure to act, or culpability on the part of Indemnitee and does not otherwise adversely affect the Indemnitee in any material way.
- 7.11. **Insurance Claims.** The Indemnitor and the Indemnitee shall each use commercially reasonable efforts to obtain all amounts recoverable under insurance policies maintained by the respective Parties which would reduce a claim for indemnification under Section 7. If an Indemnitee receives insurance proceeds after being paid (or having a Third Party Claim paid) pursuant to Section 7, then such Indemnitee shall promptly remit such proceeds to the Indemnitor in an amount equal to the lesser of (a) the amount previously paid (including any expenses incurred) by the Indemnitor to the Indemnitee with respect to such matter or (b) the amount of the insurance proceeds received by the Indemnitee.
- 7.12. **No Duplication.** Any liability for indemnification under Section 7 shall be determined without duplication of recovery. Without limiting the generality of the prior sentence, if a statement of facts, condition or event constitutes a breach of more than one representation, warranty, covenant or agreement which is subject to the indemnification obligation in Section 7, only one recovery of Loss shall be allowed and such recovery shall count against any limitation of or cap on liability set forth in this Agreement.
- 7.13. **Payment of Indemnification Claims.** All claims for indemnification shall be paid by the Indemnifying Party in immediately available funds in U.S. dollars promptly after any final determination of the amount of such claim is made by a court of competent jurisdiction, or by written agreement (or deemed agreement pursuant to Section 7.8(d)) of the Parties.
- 7.14. **Indemnification Expenses.** Notwithstanding anything to the contrary in Section 7, an Indemnitor shall reimburse Indemnitee for all reasonable costs and expenses as and when incurred by such Indemnitee (including reasonable legal fees and costs) in connection with defending or investigating an action or proceeding if it is ultimately determined by a final non-appealable judgment such Indemnitee is entitled to indemnification under Section 7. Amounts payable by an Indemnitor under Section 7.14 shall be done and payable promptly upon receipt by such Indemnitor of an invoice detailing such reimbursable costs and expenses.

8.0 COMPLIANCE PROGRAM

- 8.1 **Compliance with Applicable Law.** In performing this Agreement, Asset Manager shall comply with all applicable trade restrictions. Customer reserves the right to reject for installation at any site any material manufactured in violation of applicable trade restrictions.
- 8.2 **Anti-Corruption Laws.** Asset Manager shall immediately notify Customer of any request received by Asset Manager to take any action that might constitute, or be construed as, a violation of anti-corruption laws.

- 8.3 **Insider Trading Policy.** If Asset Manager or any of its Affiliates has material, non-public information (“Insider Information”) about Customer, such person (including its household members) may not buy or sell Customer securities, or engage in any action to take advantage of, or pass on to others, such Insider Information. Asset Manager and its Affiliates (including their respective household members) are also prohibited from buying or selling securities of other companies if Insider Information about such companies is obtained in the course of furnishing Services to Customer.
- 8.4 **Other Prohibitions.** Asset Manager and its Affiliates will not, while performing Services, permit any person under its control to (a) engage in any form of unlawful harassment or (b) be under the influence of alcohol or non-prescription drugs while on the Customer’s premises or any project site.
- 8.5 **Conflicts of Interest.** Neither Asset Manager nor any of its Representatives shall give to, or receive from, Customer or its Representatives any commission, fee, rebate, or any gift or entertainment of value in connection with this Agreement, or enter into any other business arrangement with Customer or its Representatives without the prior consent of the Customer other than as contemplated by this Agreement and the SOW. Asset Manager shall promptly notify Customer of any violation of this clause.

9.0 TERM; EVENTS OF DEFAULT; LIMITATION OF LIABILITY

- 9.1 **Commencement and Expiration of Effectiveness.** The initial term of this Agreement shall commence on the Effective Date and continue for a period of ten (10) years thereafter (the “Initial Term”). No later than ninety (90) days before the end of the Initial Term, Asset Manager shall provide Customer with a preventative maintenance fee schedule and panel cleaning fee schedule for the ten year period following the Initial Term (the “Renewal Term”, and together with the Initial Term, the “Term”). Within thirty (30) days of receipt of the Renewal Term fee schedules, Customer will notify Asset Manager whether it is electing a Renewal Term or not. If Customer elects the Renewal Term, this Agreement shall continue for another ten year term beginning up the end of the Initial Term. The parties shall amend Exhibit A (Asset Management Scope of Work) to provide for the new fee schedules. After of the first year of this Agreement has elapsed, either Party may terminate this Agreement by providing a minimum 15-day written notice to the other Party.
- 9.2 **Events of Default.** The occurrence of any of the following shall constitute an “Event of Default” by one Party (the “Defaulting Party”) under this Agreement: (a) if any representation or warranty of the Defaulting Party are materially incorrect or inaccurate, and the Defaulting Party fails to remedy such misstatements or inaccuracies within thirty (30) days after receipt of notice of such misstatements or inaccuracies by the other Party (the “Non-defaulting Party”); (b) if the Defaulting Party fails to comply with a material provision of this Agreement, and such failure is not corrected within thirty (30) days of receipt of notice of such failure by the Non-defaulting Party; or (c) if the Defaulting Party becomes subject to an assignment for the benefit of creditors, files a petition for relief under the U.S. Bankruptcy Code or similar law or regulation, or is subject of a petition for relief under the U.S. Bankruptcy Code or similar law or regulation, filed by its creditors and such petition is not dismissed within thirty (30) days.
- 9.3 **Rights upon Event of Default.** Upon an Event of Default by the Defaulting Party, the Non-Defaulting Party may, but shall not be required to, send a notice to the Defaulting Party of the Non-Defaulting Party’s intent to terminate this Agreement unless the Event of Default is corrected within the period specified in such notice. If the notice of intent to terminate is given by the Non-defaulting Party and the Defaulting Party fails to correct the default within such specified correction period or such extended correction period as the Non-defaulting Party may authorize by written notice to the Defaulting Party, then the Non-defaulting Party may terminate this Agreement by a further written notice given to the Non-defaulting Party within ten (10) days after the expiration of the applicable cure period or extended cure period.
- 9.4 **Effect of Termination.** Upon effective date of termination of this Agreement or the SOW, (a) all outstanding amounts owed by one Party to the other Party for Services performed under this Agreement and not paid shall become immediately due and payable and (b) Asset Manager shall deliver to Customer (i) subject to Section 5, all work product and instruments of service created by Asset Manager in the performance of the Services hereunder to the extent the same relate to the SOW is terminated and (ii) all Customer-supplied documents.
- 9.5 **Force Majeure.** Neither Party shall be deemed to have failed to fulfill an obligation (other than the payment of money) under this Agreement if the delay or failure is the result of a Force Majeure. To the extent reasonably practicable, within 48 hours of commencement of a Force Majeure, the non-performing Party shall provide the other Party with oral notice of the Force Majeure, and within two weeks of the commencement of a Force Majeure the non-performing Party shall provide the other Party with notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the Force Majeure claim. The suspension of performance due to a claim of Force Majeure must be of no greater scope and of no longer duration than is reasonably required by the Force Majeure. The non-performing Party shall use reasonable efforts to overcome or mitigate the Force Majeure.

10.0 WAIVER OF JURY TRIAL

- 10.1 **Waiver of Jury Trial.** Each Party hereby waives, to the fullest extent permitted by applicable Law, any right it may have to a trial by jury in respect to any litigation directly or indirectly arising out of or in connection with this Agreement,. Each Party acknowledges that it has been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this Section 10.1.

11.0 MISCELLANEOUS

- 11.1 **Entire Agreement.** This Agreement, including the SOW attached hereto and incorporated herein, contains the entire understanding of the Parties with respect to the subject matter hereof, and supersedes all prior agreements and commitments with respect thereto. Neither Party has relied upon any representation, expressed or implied, not contained in this Agreement.
- 11.2 **Amendments.** This Agreement may not be amended, changed or modified, except by a document executed by both Parties. This Agreement shall not be modified, supplemented, qualified or interpreted by any trade usage or prior course of dealing to the extent not specifically made a part of the Agreement by its express terms. No provision in any form, invoice or proposal shall alter the terms and conditions of this Agreement.
- 11.3 **Construction.** The Parties acknowledge: (a) this Agreement is the product of arms-length negotiations between the Parties, both of whom are sophisticated commercial Parties of equal bargaining power, and neither Party has in any manner relied on the other Party's expertise and/or superior knowledge, if any, in entering into this Agreement; (b) this Agreement shall be construed as if jointly prepared and drafted by both Parties; and (c) under no circumstances will any provision herein be construed for or against either Party due to Party's actual role in the preparation or drafting of this Agreement.
- 11.4 **Counterparts.** This Agreement may be executed in one or more counterparts, and by the different Parties hereto in separate counterparts and delivered by facsimile, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.
- 11.5 **Severability.** If one or more of the provisions of this Agreement shall be found, by a court with proper jurisdiction, to be illegal, invalid or unenforceable, it shall not affect the legality, validity or enforceability of any of the remaining provisions of this Agreement. The Parties agree to attempt to substitute for any illegal, invalid or unenforceable provision a legal, valid or enforceable provision that achieves to the greatest extent possible the economic objectives of the illegal, invalid or unenforceable provision.
- 11.6 **Survival.** Sections 2.6, 2.8, 3, 5 through 10.14 shall survive any termination or expiration of this Agreement.
- 11.7 **Waiver.** Either Party's failure to exercise a right or remedy, or such Party's acceptance of a partial or delinquent payment, shall not operate as a waiver of any of such Party's rights or the other Party's obligations under this Agreement and shall not constitute a waiver of such Party's right to declare an immediate or a subsequent breach.
- 11.8 **Assignment; Successors.** Except as provided herein, neither Party shall assign this Agreement without the prior written consent of the other Party, and any purported assignment that does not comply with the following requirements shall be deemed null and void: (a) Customer may sell, transfer, or otherwise convey ownership of its Solar Energy Facility, and Asset Manager shall have the right to terminate this Agreement upon written notice to Customer or Customer's assignee. In the event Asset Manager declines to provide ongoing Services to Customer's assignee, Asset Manager will notify the assignee in writing within thirty (30) days of such decision. If Asset Manager does not provide such written confirmation within thirty (30) days, this Agreement shall continue in full force and effect, and inure to the benefit of and be binding upon Customer's assignee, who shall assume all rights and responsibilities of the original Customer; (b) Asset Manager may sell, transfer, or otherwise convey its rights and responsibilities under this Agreement, with the prior written consent of Customer. Upon either Party's assignment of its rights and obligations under this Agreement in compliance with the terms stated herein, this Agreement shall continue in full force and effect, and inure to the benefit of and be binding upon the Parties and their respective permitted successors and assigns.
- 11.9 **No Third-party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit of the Parties and their respective Affiliates and permitted successors and assigns, and no other person or entity shall be a third-party beneficiary of, or have any direct or indirect cause of action or claim in connection with this Agreement.
- 11.10 **Notices.** All notices, requests and demands which either Party is required or may desire to give to the other Party under this Agreement must be in writing and delivered to such Party at the applicable address or fax number listed below. Either Party may designate by written notice to the other Party any other address, telephone number or fax number during the

term of this Agreement. Each notice, request and demand sent under this Section shall be deemed delivered or made as follows: (a) if sent by hand delivery, upon delivery; (b) if sent by mail or delivery service, upon the earlier of the date of receipt or five (5) business days after deposit in the mail with first class postage prepaid; and (c) if sent by telecopy or facsimile, upon receipt.

If to Customer:
Contra Costa Public Works Department
Attn: _____
Attn: _____

Telephone: _____
Email: _____

If to Asset Manager:
SunSystem Technology, Inc.
Attn: Wayne Williford
Attn: Derek Chase
2731 Citrus Road, Ste. D
Rancho Cordova, CA 95742
Telephone: (844) 477-8787
Email: wwilliford@sunsystemtechnology.com

- 11.11 **Applicable Law; Venue; Jurisdiction.** This Agreement shall be governed by, subject to, and construed in accordance with the laws of the State of California in the United States of America, without regard to conflict of laws principles. Any claim, controversy or dispute arising under or related to this Agreement shall be governed by the laws of the State of California and shall be brought in, and the Parties consent to general, personal and exclusive jurisdiction of and venue in, the United States District Courts in the Eastern District of California (Sacramento Division) or, if the federal courts lack subject matter jurisdiction, the Superior Court in California, County of Sacramento.
- 11.12 **Attorneys' Fees and Expenses.** In the event either Party bring legal proceedings to enforce any or all terms of this Agreement, the prevailing Party shall be entitled to recover the reasonable expenses associated therewith, including but not limited to costs and reasonable attorneys' fees and expenses.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their duly authorized representatives, and the Parties hereby agree to the above terms and conditions of this Agreement and intend to be legally bound thereby.

Contra Costa County

SunSystem Technology, LLC

Signature _____
Name _____
Title _____
Date _____

Signature _____
Name _____
Title _____
Date _____

**EXHIBIT A to Master Services Agreement
Contra Costa County Public Works Department
Asset Management Scope of Work**

This Exhibit A is an exhibit to the Agreement (as defined in Section 1 below). The Solar Energy Facility for the Services is owned by Contra Costa County, with a total of 1,736.5 kWp. The arrays are located at Juvenile Hall 202 Glacier Dr., Martinez, CA 94553, Emergency Services 50 Glacier Dr, Martinez, CA 94553, Public Works 255 Glacier Dr, Martinez, CA 94553, Sheriff Patrol & Investigation 1980 Muir Rd, Martinez, CA 94553, Sheriff Forensics/Coroners 1960 Muir Rd, Martinez, CA 94553 and Health Center Garage, 13601 San Pablo Ave, San Pablo, CA 94806 with Mitsubishi 225 modules and Conergy PM240P modules with SMA250U and AE500NX inverters. Customer is electing the SST **Premium** tier service level. Premium services include preventative maintenance services one time per year and panel cleaning at least two times per year and per request thereafter. Corrective maintenance service fees apply per visit.

1. GENERAL PROVISIONS

- 1.1. This Scope of Work ("SOW") applies to the Master Service Agreement (the "Agreement"), between SunSystem Technology, LLC (the "Asset Manager") and Contra Costa County, on behalf of its Public Works Department (the "Customer"), dated as of _____, 2017 (the "Provisional Start Date"). If there is any conflict or inconsistency between this SOW and any other provisions of the Agreement, this SOW shall control the rights and responsibilities of the Parties.
- 1.2. Capitalized terms not defined in this SOW have their respective meanings provided in the Agreement.
- 1.3. If any sales, use, excise or other taxes or fees are assessed by or payable to any governmental authority by reason of this Agreement, any Services performed or materials purchased pursuant hereto, or any payment made hereunder, Customer shall remit the amount thereof to Asset Manager unless Customer presents a valid and duly issued resale exemption certificate to Asset Manager.

2. CERTAIN DEFINITIONS

- 2.1. Commissioning: the validation, made by Asset Manager or by another person approved by Asset Manager in its discretion, of the System's design, equipment and components and performance characteristics.
- 2.2. ContAR: has the meaning set forth in Section 6.2.
- 2.3. CustAR: has the meaning set forth in Section 6.1.
- 2.4. DAS (Data Acquisition System): the web-based computer server and related operating and application software that: (a) monitors operational status and stores related data pertaining to all critical devices incorporated in the System; (b) periodically acquires sample data from all monitored devices no less frequently than once every 15 minutes; (c) is enabled with visual and email alarms that (i) are activated automatically upon changes in the System or critical device status in excess of parameterized limits and (ii) communicate automatically with Asset Manager; (d) is capable of trending, tracking and analysing System performance and acquired data against baseline modelled values; and (e) allows Asset Manager to view all reported data from a remote location at all times.
- 2.5. Emergency: a situation at the System site that: (a) poses an immediate risk to health, life, property (including lost production) or environment; and (b) if so judged by Asset Manager, reasonably requires urgent intervention to prevent a worsening of the situation.
- 2.6. Force Majeure Event: an event or circumstance beyond the control of the Parties, including (without limitation) war, strike, riot, crime, or an act of Nature (such as a severe wind, rain storms, flooding, volcanic eruption, etc.) or acts of God(s) (such as miracles, raptures, exoduses, etc.).
- 2.7. Incidental Services: minor corrective Repairs that are performed during the annual maintenance visit that do not, in the aggregate, involve expenditures of more than \$ 30.00 for materials and one man-hour of labour per site, with any amount in excess thereof being billed and paid by Customer at the time and material charges provided for in the Agreement.
- 2.8. Maintenance/Maintain (with respect to a unit of equipment): commercially reasonable action for the purpose of perpetuating the operating condition of that unit to its performance characteristics (without Repair or Replacement except for consumables), existing on the later of the Provisional Start Date or the date on which such unit was last repaired or placed in service, subject reasonable wear and tear.

2.9. Operations Manual: a complete compilation of installation, maintenance, and design and specification documentation relating to each type of equipment and component comprising the System and an Emergency Plan. The Operations Manual may include any or all of the following:

- i. - Asset Manger’s plan for providing services
- ii. - Operations and maintenance instructions issued by the manufacturer of each type of equipment comprising the System
- iii. - Templates of:
 - iv. All Inspection and Checklist documents referenced in the SOW
 - v. Monthly and Annual Report
 - vi. Emergency/ Performance Warranty /Outage Notices

- Copies of:

- i. Contact list of sub-contractors (if applicable)
- ii. Plans and schematics of the System as constructed
- iii. Manufacturer’s Product Warranty (as herein defined) information
- iv. Site access procedures
- v. Spare parts list
- vi. Schedule of installed equipment, including manufacturer name, model number serial number, date of purchase, date of installation and vendor
- vii. Insurance certificates of Asset Manager and Asset Manager’s sub-contractors

- Emergency Plan:

Standard procedures for, General Emergencies, Fire, Severe Storm and Flood

viii. Emergency Contact info. and addresses of:

- a. Customer
- b. Utility
- c. Contractor
- d. Fire Dept.
- e. Police Dept.
- f. Chemical Hazards Dept.

- ix. Site muster points
- x. Fire safety plan
- xi. Emergency shutdown procedures

2.10. Product Warranty: a guaranty made by the manufacturer of a unit of equipment or component, usually promising: (a) specifically-identified facts relating to quality, conformity to specifications or performance characteristics of the unit, are and shall be true under stated operational and other conditions; and (b) the manufacturer shall rectify any failure of such facts to by repair, replacement or compensation. Duration of the Product Warranty is determined by the manufacturer only.

2.11. Repair: commercially reasonable restoration of a damaged or broken unit of equipment, device, DAS hardware, DAS software, structure or road substantially to its functional condition existing as of the time immediately before the unit was damaged or broken.

2.12. Replacement/Replace: the substitution of a new, equivalent, functionally-identical unit of equipment, for a unit of equipment, device, DAS hardware, structure or road that is broken, damaged or destroyed and is not suitable for Repair.

2.13. System: the equipment, components, devices and structures, generally constituting the photovoltaic facility, as identified in the Agreement.

2.14. Troubleshooting/Troubleshoot: the non-invasive, on-site inspection by Asset Manager (without referral to outside testing or other expertise, except to confer with the manufacturer of the subject equipment for a diagnostic opinion) of one or more components and related metrics of the System that are known to be, or suspected, of operating outside expected parameters, and reporting results of the inspection in an appropriate report. This process is meant to identify factors

contributing to, or causing, irregular operation of equipment and components, but does not include Repairs or Replacements.

3. SERVICE COMMENCEMENT PROCEDURES

3.1. Asset Manager shall have no liability or responsibility for the condition or performance of any System component provided by any servicer, installer, or vendor prior to Asset Manager’s performance of services under this SOW . Customer hereby expressly waives all claims for defects, failures, or damage caused by or arising from any work completed on the System prior to Asset Manager’s performance of services under this SOW. During the period ending 30 days after the Provisional Start Date (the “Validation Period”), Asset Manager shall determine if the System (a) is in fact operationally ready and (b) performs as set forth in the Commissioning report and at a level consistent with the assumptions used in establishing the Performance Warranty criteria. If Asset Manager determines (a) and (b), which are together called the “Operational Conditions”) are true, then Asset Manager shall so notify Customer and commence performing Services and its other obligations under the Agreement.

4. SCOPE OF ASSET MANAGEMENT SERVICES AND SCHEDULE

4.1. Asset Manager shall perform the Services as described and subject to the conditions set forth in this Section. Asset Manager’s obligation to commence and continue performing Services is subject to Customer providing Asset Manager, at Customer’s expense, at all times, with: (a) complete access to all physical, electronic, data, documentation and intellectual property used in, comprising or resulting from the operation of the System, or reasonably necessary to allow Asset Manager to efficiently and effectively perform the Services, including all buildings, roads, equipment and components; (b) all utilities associated with the operation of the System or reasonably necessary for Asset Manager to perform the Services as contemplated by the SOW; and (c) copies of all governmental permits and licenses to enable the lawful operation of the System. If any condition occurs for which Asset Manager has no responsibility under this SOW, the measurement criteria applicable to the Performance Warranty (if any) shall be reduced to the extent such condition adversely affects the amount of electricity produced by the System. Nothing herein shall require Asset Manager to perform any Services that violate or have the effect of violating any provision of law or governmental regulation.

4.2 Scope of Asset Management Services. Asset Manager shall perform the Services set forth in Section 4.

4.3 Monitoring. Customer shall install DAS so that it continuously complies with the applicable definitional requirements in the SOW, including Customer’s (i) obtaining and installing all software and hardware upgrades to DAS, and (ii) payment of all license and other fees and expenses required to permit Asset Manager to use DAS as herein provided. Customer shall be responsible for maintaining and assuring Asset Manager’s access to an offsite backup for DAS. Asset Manager shall monitor the System, on site or remotely in its discretion, using DAS as its principal resource. Asset Manager shall utilize DAS to take the following actions: (a) Track data and trends, trend and analyze System performance, electricity generation and availability against the baseline values expressed in Asset Manager’s performance warranties; (b) Identify possible ways to enhance System performance; (c) Troubleshoot and inform Customer on reports and alert notifications, as appropriate; (d) Review each days acquired data; and (e) Generate reports as specified in this SOW.

4.4 Corrective Actions: Repairs and Replacement. Repairs and Replacements. Asset Manager shall not undertake Repairs (other than in connection with Incidental Services) or Replacements, other than in the event of an Emergency or with Customer’s prior written approval (which shall be deemed given with respect to all Product Warranty work undertaken by Asset Manager). All labor associated with Repairs and Replacements made by Asset Manager shall be invoiced to Customer at the labor rates set forth in Section 7.3.1. All products, components, and other materials purchased by Asset Manager to make Repairs or Replacements shall be invoiced to Customer at rates set forth in Section 7.3.1.

4.5 Product Warranty Claim Administration. If a condition, affecting equipment or components installed in the System, becomes known to Asset Manager and is covered by a manufacturer’s Product Warranty, of which a copy is included in the Operations Manual, Asset Manager shall alert Customer as to the relevant circumstances and request instructions relating to the Product Warranty. If Customer authorizes Asset Manager to submit a Product Warranty claim, Asset Manager shall, on behalf of Customer, (i) document the condition in the context of the applicable Product Warranty; (ii) communicate with the party that made such Product Warranty; (iii) present the related Product Warranty claim; and (iv) manage the Product Warranty claim process, including obtaining return authorizations, removing the subject product or component, installing a

replacement product or component, and shipping the subject product if required (at Customer's expense, unless the cost is borne by the maker of the Product Warranty), and seeking compensation, product replacement and other benefits under the terms of the Product Warranty. Any compensation or replacement products received in connection with a Product Warranty claim shall be the property of Customer. Except as stated above, Asset Manager shall have no duty to commence, prosecute or defend any legal proceeding, or take any other action (by way of litigation or otherwise) to obtain or secure any actual or alleged benefit (i) from a Product Warranty or (ii) unless Asset Manager agrees independently of this SOW, under the terms of an Engineering, Procurement or Construction contract or other written agreement. Asset Manager shall keep Customer informed of material information relating to each Product Warranty claim.

4.6 SunSystem Technology O&M Premium Service. Asset Manager will perform the following Services:

Plus

- Initial onsite system health check
- Performance analysis of system
- Weekly viewing of monitoring output
- Monthly system reports
- Annual performance summary
- Facilitation of product warranties
- SST O&M updates/newsletter
- Inclusion in SST corrective action maintenance network

Premium

- All "Plus" services

With the addition of:

- 24/7/365 system monitoring
- Guaranteed response times for corrective actions
- Initial recommissioning of system at no cost
- Annual PM
 - Basic PM scope
 - Site inspection (vegetation, debris, structure, roof)
 - Module inspection
 - Racking inspection
 - DC combiner and DC protection device inspection
 - Inverter inspection
 - Inverter AC output and AC protection inspection
 - Inverter inspection and filter cleaning
 - Inverter AC output and AC protection device inspection
 - AC equipment & transformer inspection
 - DC & AC conduit/fittings/wiring inspection
 - String wire insulation testing
 - Interconnection inspection
 - Solar generation meter inspection
 - Data acquisition system & component inspection
 - Representative sample torque testing
 - Inspection of inverter pads and foundations
 - Complete small repairs and/or provide a corrective action plan

- 4.7 Security.** Asset Manager shall have no responsibility for any activity relating to the security of the System or any component element or production capacity, or for the consequences of the failure of any safety or security measures.
- 4.8 Reporting.** Asset Manager shall report all Services performed by or on behalf of Asset Manager and its sub-contractors (sub-contractors, only if consented by the Customer) pursuant to this SOW in accordance with this Section. Such reports shall be delivered electronically to the designated CustAR.
- 4.8.1 Service Report.** Asset Manager shall prepare a service report of all activities that do not fall into one of the checklists identified in this SOW or, in the opinion of Asset Manager, deserve additional attention (such as identifying required or recommended Repairs, Replacements, and Troubleshooting activities). All service reports shall be delivered to the CustAR within a reasonable time after preparation, provided, however, any such report that requires Customer's immediate attention shall be delivered as soon as it is completed, but not later than 24 hours after it is prepared.
- 4.8.2 Monthly Report (if applicable).** Asset Manager shall prepare and deliver electronically to the CustAR a Monthly Report, starting one month after the Provisional Start Date. Each Monthly Report shall be delivered not later than ten business days after the end of the month to which it relates. The Monthly Report shall summarize: (a) the subject month's material activities and events at the System site; and (b) performance, generation and availability data for the purposes of tracking Performance Warranty obligations.
- 4.8.3 Annual Report.** Asset Manager shall prepare and deliver electronically to the CustAR an Annual Report, starting one year after the Provisional Start Date. Each Annual Report shall be delivered not later than thirty days after the end of the year to which it relates. The Annual Report shall: (a) be a compilation of the subject year's Monthly Reports; (b) include recommendations Asset Manager has to enhance the performance, safety or general operation of the System; and (c) furnish data to measure attainment according to standards of applicable Performance Warranties.
- 4.9 Additional Administrative Services.** As a part of the SOW, Asset Manager will: (i) Maintain complete records of all matters related to the SEF; (ii) Perform registration and annual reporting as required by Federal and State regulatory agencies; (iii) Submit energy delivery forecasting to the Utility; (iv) Provide production analysis reporting; (v) Provide service event tracking; and (vi) Handle accounts payable and accounts receivable (for Asset Manager's own employees and affiliates).
- 4.10 Emergency.** Asset Manager shall deploy a qualified technician to be on site within 48 hours after Asset Manager receives notice of an Emergency. Upon arrival at the Emergency site, the technician shall attempt to determine the cause of, and isolate, the Emergency, with a view toward mitigating adverse consequences of the Emergency to the extent commercially reasonable, and avoiding any recurrence or continuation. Asset Manager shall keep Customer informed, to the extent circumstances permit and applicable knowledge (or a working hypothesis) is available, of Asset Manager's opinion as to the cause of the Emergency and what Repairs and Replacements should be made to restore the System. Inclusive of the SOW contract amount is three (3) Emergency call dispatches per year, with a maximum time onsite of 4 hours. Additional calls shall be billed at the material rate specified in Section 7.3.1. Asset Manager shall Repair or Replace any lost, damaged or destroyed equipment or components at Customer's expense, as provided elsewhere in this SOW. Asset Manager shall provide Customer with an emergency hotline which can be accessed 24 hours a day, seven days a week.
- 4.11 Force Majeure.** If a Force Majeure Event occurs and affects the System: (a) Asset Manager shall be excused from performing Services for the duration of and to the extent that such Force Majeure Event interferes with or prevents the safe and commercially reasonable performance of those Services; (b) For any reduction in the production of electricity by the System, the measure of performance for purposes of the Performance Warranty shall be adjusted to exclude such reduction; and (c) All loss, damage or destruction of the System or any component part shall be the sole responsibility of Customer; provided, however, Asset Manager shall Repair or Replace any lost, damaged or destroyed equipment or components at Customer's expense as provided elsewhere in this SOW.

5. PREVENTATIVE MAINTENANCE SERVICES

5.1. **Preventative Maintenance (Premium and Ultimate).** Asset Manager shall complete in house or appoint an Operations and Maintenance service provider to conduct either the bi-annual or annual Preventative Maintenance services set forth in Section 8 below, provided that Asset Manager’s use of any sub-contractor(s) will require prior approval by the Customer. .

6. AUTHORIZED REPRESENTATIVES

6.1. **Customer Contacts.** Customer shall designate, in writing, an individual as a primary contact for the purposes of the Agreement and one other individual as a secondary contact (in either case, the “CustAR”), and shall advise Asset Manager of all information necessary or appropriate to communicate with each CustAR at all times during the term of this Agreement. Customer hereby authorizes each CustAR, acting alone, to represent Customer with respect to all matters relating to the administration of this Agreement, including authorization for Asset Manager to proceed with, and be paid for, work (including work performed on a time and materials basis) for which Customer’s approval or consent is required under this Agreement. Asset Manager shall be entitled to rely on each CustAR without obtaining additional or other approvals or consents for all such purposes. Customer may change any previously designated CustAR upon advising Asset Manager in writing of the name(s) of and contact information for such successor CustAR.

6.2. **Asset Manager Contacts.** Asset Manager shall designate, in writing, to Customer an individual as a primary contact and one other individual as a secondary contact (in either case, the “ContAR”), and shall advise Customer of all information necessary or appropriate to communicate with each ContAR at all times during the term of this Agreement. Asset Manager hereby authorizes each ContAR, acting alone, to represent Asset Manager with respect to all matters relating to the administration of this Agreement, including matters relating to the authorization for Asset Manager to proceed with and be paid for work for which Customer’s approval or consent is required under this Agreement. Customer shall be entitled to rely on each ContAR (without obtaining additional or other approvals or consents) for all such purposes. Asset Manager may change any previously designated ContAR upon advising Customer in writing of the name(s) of and contract information for such successor ContAR.

7. ASSET MANAGEMENT SERVICE FEE SCHEDULE

7.1. **Asset Management Service Fee (SST service level tiers 2, 3, or 4).** As compensation to Asset Manager for the performance of Services rendered, Customer shall pay Asset Manager the Service Fee stated in the “Annual Asset Management Preventative Maintenance Fee Schedule”, below, after the Provisional Start Date. The Annual Service Fee shall escalate at a rate of 3% per year beginning at the first anniversary of the Provisional Start Date. Any other changes to the Service Fee shall be agreed upon in an amendment to the Agreement by Customer and Asset Manager. The Fee Schedule below is based upon the Term set forth in Section 9.0 (Term) of the Agreement.

ANNUAL ASSET MANAGEMENT PREVENTATIVE MAINTENANCE FEE SCHEDULE	
YEAR	ANNUAL SERVICE FEE
1	\$ 13,259 or \$1,105 /mo
2	\$ 13,657 or \$1,138 /mo
3	\$ 14,067 or \$1,172 /mo

4	\$ 14,489 or \$1,207 /mo
5	\$ 14,924 or \$1,244 /mo
6	\$15,372 or \$1,281 /mo
7	\$15,833 or \$1,319 /mo
8	\$16,308 or \$1,359 /mo
9	\$16,797 or \$1,400 /mo
10	\$17,301 or \$1,442 /mo

BI-ANNUAL ASSET MANAGEMENT PANEL CLEANING SCHEDULE	
YEAR	BI-ANNUAL SERVICE FEE
1	\$ 5,603.95 (x2)
2	\$ 5,771 (x2)
3	\$ 5,944 (x2)
4	\$ 6,122 (x2)
5	\$ 6,306 (x2)
6	\$6,495 (x2)
7	\$6,690 (x2)

8	\$6,891 (x2)
9	\$7,098 (x2)
10	\$7,311 (x2)

Note: If deionized water is required an extra \$3,000/panel cleaning occurrence will be added, per panel cleaning event.

7.2. Service Fee Coverage. The Asset Management Service Fee is inclusive of all services detailed in Section 4 (Scope of Asset Management Services) and the Preventative Maintenance Services stated in section 4.6.

7.3. Payment Frequency. Customer shall pay Asset Manager the Annual Service Fee on an annual basis Additional Services not in the SOW shall be sent for approval by Customer and shall be invoiced to Customer once Asset Manager confirms resolution of the requested Services.

7.3.1. Service Fees for Additional Work. Additional charges may be incurred due to Emergency response, labor to complete unexpected warranty work on system components, and other site work as requested by Customer not detailed in the SOW and/or the Preventative Maintenance Services. The pricing schedule for additional work is found below:

Responsive Single Technician Rates*

- Regular Rate - \$120.00/Hr. (Monday – Friday) (7 AM – 5 PM)
- Overtime Rate - \$135.00/Hr. (5 PM to 7 AM and over 12 hours worked in one day)
- Weekend/Holiday Rate - \$135.00/Hr. (Weekends and National Holidays)
- Two hour minimum charge on all original service requests

*For multiple technicians on site, multiply the rate by the number of technicians on site.

Materials

- Billable Materials – 15% margin on cost, plus applicable tax (cost includes shipping)
- Rental Equipment – 15% margin on cost, plus applicable tax

7.4. Panel Cleaning. Panel Cleaning has been added to this agreement, seen in second pricing table.

8. Preventive Maintenance Scope of Work. Asset Manager shall perform the following preventative maintenance work.

Service	Frequency
<i>Preventative Maintenance</i>	
Panel Washing	Minimum twice per year, more if required to maintain performance within 5% of design
Vegetation Management	Minimum annually, but more frequently as required

Pest Control (Identify intrusions, eliminate infestations, perform	Annually
Required manufacturers inspections, testing and routine service	As specified by manufacturers
Visual Inspections	
Identify any new shading concerns	Annually
Ensure penetrations are watertight where applicable	Annually
Ground erosion and corrosion near supports for ground mount systems	Annually
Confirm electrical enclosures are secured with locks and have restricted access	Annually
Check and document any corrosion issues	Annually
Check for loose hanging wires	Annually
Inspect equipment pads for cracking and wear	Annually
Inspect PV modules for defects (burn marks, discoloration, delamination, or cracked glass)	Annually
Inspect racking system for rust, corrosion, sagging, missing or broken clips or bolts	Annually
Inspect conduits for proper support and expansion joints where necessary	Annually
Open combiner boxes and check torque marks on lugs	Annually
Open disconnects and inspect for corrosion or damage	Annually
Inspect all combiner boxes and disconnects for water ingress and debris, seal and clean where necessary	Annually
Inspect inverter interior and exterior for water ingress rodent, pests, dust intrusion, and torque settings	Annually
Clean Inverter cabinet air vents, change inverter air filters and remove dust from inverter heat sinks	Annually
Verify weather sensor placements and cleanliness	Annually
Testing	
Verify torque settings for major equipment (structures, inverters, modules, BOS)	Annually
Voltage and current testing at inverters and string level	Annually
Recalibrate or replace (DAS) data acquisition system, sensors and meters	Annually
Corrective and Reactive Maintenance	As Needed
Provide capability for automated e-mail or text alerts to selected County contacts upon certain emergency or system fault conditions	As Needed
24 hr. response time to an incident, alert or discovery requiring immediate maintenance, and or repair	As Needed

Provide Time and Material cost for all non-scope/non-warranty repairs. T&M cost to include allowance or discount/ additions to manufacturer's price lists for parts required.	As Needed
Provide written facility maintenance report, monthly updates and quarterly reports (5 business days following performance of maintenance services)	As Needed
Monthly updates to include summary of monthly activities, such as repairs, interruptions in production, change in performance, faults detected, etc.	As Needed
Warranty Administration	As Needed
Includes labor for defective equipment replaced under warranty	As Needed
Perform all warranty maintenance on systems component parts and DAS equipment.	As Needed
Coordinate all warranty claims and repairs required	As Needed
Warranty Claims representation to be provided, including documentation collection and necessary filings	As Needed