



PEG Capital, LLC

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POWER PURCHASE AGREEMENT

This Agreement (“Agreement” as further defined in Section 1.1) is made and entered into as of this _____ (“Effective Date”) and is witnessed and acknowledged by PEG Capital with its principal office at 7220 Bob Bullock Lp Laredo, TX 78041 (“Provider”) and, United Independent School District an individual with the address located 4301 VIENTOS ROAD LAREDO, TX 78046 (address) (the “Purchaser”), as evidenced by their signature on the last page of this document. Purchaser and Project Entity are referred to herein individually as a “Party” and collectively as the “Parties”

WITNESSETH:

WHEREAS, Purchaser desires that Provider install and operate a solar photovoltaic system and the ancillary equipment associated therewith at the Premises (as hereafter defined) (“System”) for the purpose of providing Services (as hereafter defined), and Provider is willing to do the same;

WHEREAS Purchaser issued a Request for Proposal #refer to Exhibit D for the System, (the “RFP”)

which is attached hereto and made a part hereof as Exhibit C; and WHEREAS, Provider has agreed to provide the System and submitted a Proposal dated 05/17/2024 (the “Proposal”) which is attached hereto and made a part hereof as **Exhibit D**.

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS.

1.1 Definitions. In addition to other terms specifically defined elsewhere in the Agreement, where capitalized, the following words and phrases shall be defined as follows:

“Actual Monthly Production” means the amount of Energy recorded by Provider’s metering equipment during each calendar month of the Term, pursuant to Section 4.2.

“Affiliate” means, with respect to any specified Person, any other Person directly or indirectly controlling, controlled by or under common control with such specified Person.

“Agreement” means this Power Purchase Agreement, including the General Conditions and the Exhibits and Schedules attached hereto.

“Applicable Law” means, with respect to any Person, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding,

injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, consent or requirement of any Governmental Authority having jurisdiction over such Person or its property, enforceable at law or in equity, including the interpretation and administration thereof by such Governmental Authority

“Assignment” has the meaning set forth in Section 13.1.

“Bankruptcy Event” means with respect to a Party, that either: (i) such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property; (B) admitted in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) made a general assignment for the benefit of its creditors; (D) commenced a voluntary case under any bankruptcy law; (E) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) failed to controvert in a timely and appropriate manner, or acquiesced in writing to, any petition filed against such Party in an involuntary case under any bankruptcy law; or (G) taken any corporate or other action for the purpose of effecting any of the foregoing; or (ii) a proceeding or case has been commenced without the application or consent of such Party in any court of competent jurisdiction seeking (A) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or, (B) the appointment of a trustee, receiver, custodian, liquidator or the like of such Party under any bankruptcy law, and such proceeding or case has continued undefended, or any order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect for a period of sixty (60) days.

“Business Day” means any day other than Saturday, Sunday or a Federal Reserve Bank holiday.

“Commercial Operation Date” has the meaning set forth in Section 3.3(b).

“Confidential Information” has the meaning set forth in Section 15.1.

“Covenants, Conditions and Restrictions” or “CCR” means those requirements or limitations related to the Premises as may be set forth in a lease, if applicable, or by any association or other organization, having the authority to impose restrictions.

“Disruption Period” has the meaning set forth in Section 4.3(b).

“Early Termination Date” means any date on which the Agreement terminates other than by reason of expiration of the then applicable Term.

“Energy” means electric energy measured in kilowatt-hours (“kWh”) or in megawatt-hours (“MWh”).

“Environmental Attributes” means, an aspect, claim, characteristic or benefit associated with the generation of a quantity of electricity by an electricity generation facility that is capable of being measured, verified or calculated, including any and all credits, benefits, emissions reductions, offsets and allowances, howsoever entitled, attributable to the generation of such quantity of electricity by an electricity generation facility and its displacement of conventional, non-renewable electricity generation together with the right(s) to report ownership of such attributes to any agency, authority, or third party. Environmental Attributes shall not include (i) any energy, capacity, reliability or other power attributes from the electricity generation facility; (ii)

production tax credits associated with the construction or operation of the electricity generation facility and other financial incentives in the form of credits, reductions or allowances associated with the electricity generation facility that are applicable to a state, provincial or federal income taxation obligation; or (iii) fuel-related subsidies, “tipping fees”, or other local subsidies received by the electricity generation facility for the destruction of particular preexisting pollutants or the promotion of local environmental benefits

“Estimated Annual Production” has the meaning set forth in Section 5.2.

“Expiration Date” means the date on which the Agreement terminates by reason of expiration of the Term.

“Fair Market Value” means, with respect to any tangible asset or service, the price that would be negotiated in an arm’s-length, free market transaction, for cash, between an informed, willing seller and an informed, willing buyer, neither of whom is under compulsion to complete the transaction. Fair Market Value of the System will be determined pursuant to Section 2.4.

“Financing Party” means, as applicable (i) any Person (or its agent) from whom Provider (or an Affiliate of Provider) leases the System, or (ii) any Person (or its agent) who has made or will make a loan to or otherwise provider financing to Provider (or an Affiliate of Provider) with respect to the System.

“Force Majeure Event” has the meaning set forth in Section 10.1.

“General Conditions” means this Power Purchase Agreement, excluding the Exhibits and Schedules hereto.

“Governmental Approval” means any approval, consent, franchise, permit, certificate, resolution, concession, license, or authorization issued by or on behalf of any applicable Governmental Authority.

“Governmental Authority” means any federal, state, regional, county, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.

“Indemnified Persons” means the Purchaser Indemnified Parties or the Provider Indemnified Parties, as the context requires.

“Initial Term” has the meaning set forth in Section 2.1.

“Installation Work” means the construction and installation of the System and the start-up, testing and acceptance (but not the operation and maintenance) thereof, all performed by or for Provider at the Premises.

“Invoice Date” has the meaning set forth in Section 6.2.

“kWh Rate” means the price per kWh set forth in Schedule 2 payable for the services to be provided hereunder including Energy, and heat.

“Liens” has the meaning set forth in Section 7.1(e).

“Letter(s) of Credit” means one or more irrevocable, non-transferable standby letters of credit issued by a U.S. commercial bank or a U.S. branch of a foreign bank (which is not an Affiliate of either Party) with such bank having a credit rating of at least A- from Standard & Poor’s Rating Group and A3 from Moody’s Investor Service, and otherwise being in a form acceptable to the Party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

“Local Electric Utility” means the local electric distribution owner and operator providing electric distribution and interconnection services to Purchaser at the Premises.

“Losses” means all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs and expenses (including all reasonable attorneys’ fees and other reasonable costs and expenses incurred in defending any such claims or other matters or in asserting or enforcing any indemnity obligation).

“Option Price” has the meaning set forth in Section 2.3.

“Party” or “Parties” has the meaning set forth in the preamble hereof.

“Person” means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, firm, or other entity, or a Governmental Authority.

“Premises” means the premises described in Schedule 1 of the Special Conditions. For the avoidance of doubt, the Premises includes the entirety of any structures and underlying real property located at the address described in Schedule 1.

“Provider” has the meaning set forth in the Special Conditions.

“Provider Default” has the meaning set forth in Section 11.1(a).

“Provider Indemnified Parties” has the meaning set forth in Section 16.2.

“Purchase Date” means the day that occurs on the date that is the sixth (6th) anniversary, the tenth (10th) anniversary, and the fifteenth (15th) anniversary of the Commercial Operation Date, provided that if such day is not a Business Day, the Purchase Date shall be the next Business Day to occur after such day.

“Purchaser” has the meaning set forth in the Special Conditions.

“Purchaser Default” has the meaning set forth in Section 11.2(a).

“Purchaser Indemnified Parties” has the meaning set forth in Section 16.1.

“Renewal Term” has the meaning set forth in Section 2.1.

“Representative” has the meaning set forth in Section 15.1.

“Security Agreement” has the meaning set forth in Section 8.2.

“Stated Rate” means a rate per annum equal to the lesser of (a) the “prime rate” (as reported in The Wall Street Journal) plus two percent (2%) and (b) the maximum rate allowed by Applicable Law.

“System Operations” means the Provider’s operation, maintenance and repair of the System performed in accordance the requirements herein.

“Term” has the meaning set forth in Section 2.1.

“Transfer Time” has the meaning set forth in Section 4.3(a).

1.2 Interpretation. The captions or headings in these General Conditions are strictly for convenience and shall not be considered in interpreting the Agreement. Words in the Agreement that impart the singular connotation shall be interpreted as plural, and words that impart the plural connotation shall be interpreted as singular, as the identity of the parties or objects referred to may require. The words “include”, “includes”, and “including” mean include, includes, and including “without limitation” and “without limitation by specification.” The words “hereof”, “herein”, and “hereunder” and words of similar import refer to the Agreement as a whole and not to any particular provision of the Agreement. Except as the context otherwise indicates, all references to “Articles” and “Sections” refer to Articles and Sections of these General Conditions.

1.3 Entire Agreement and Order of Precedence. This Agreement forms the entire agreement between the parties and supersedes all written or oral, prior or contemporaneous communications between the parties relating to the subject matter of this Agreement.

In case of a conflict or discrepancy among the elements of this Agreement, such conflict or inconsistency shall be resolved by giving precedence to the document elements in the the following order: (1) Exhibits A and A-1; (2) Exhibit B, (3) the Schedules, (4) the General Conditions, (5) the RFP, and (6) the Proposal.

2. TERM AND TERMINATION.

2.1 Term. The term of the Agreement shall commence on the Effective Date and shall continue for twenty (20) years from the Commercial Operations Date (“Initial Term”), unless and until terminated earlier pursuant to the provisions of the Agreement. After the Initial Term, the Agreement shall be renewed by the parties for an additional five (5) year term (a “Renewal Term”). The Initial Term and the subsequent Renewal Term, if any, are referred to collectively as the “Term.” During any Renewal Term, either Party may, subject to Section 2.2, terminate the Agreement upon one hundred and eighty (180) days’ prior written notice to the other Party.

2.2 Early Termination. Purchaser may terminate the Agreement 5 years prior to any applicable Expiration Date for any reason upon sixty (60) days' prior written notice. In such event, Purchaser shall pay, as liquidated damages, an amount equal to

any amounts previously owed amounts to Provider under this Agreement, and (iii) the cost of removing the System. Upon such payment, Provider shall cause the System to be disconnected and removed from the Premises. Upon Purchaser's payment to Provider of the Early Termination Fee, the Agreement shall terminate automatically without further liability to either Party with respect to the Agreement.

2.3 Purchase Option. On any Purchase Date, so long as a Purchaser Default shall not have occurred and be continuing, Purchaser has the option to purchase the System for a purchase price (the "Option Price") equal the Fair Market Value of the System as of the purchase date, as determined in accordance with the provisions outlined in Schedule 3 for purchase options.

To exercise its purchase option, Purchaser shall, not less than one hundred and eighty (180) days prior to the proposed Purchase Date, provide written notice to Provider of Purchaser's intent to exercise its option to purchase the System on such Purchase Date. Within thirty (30) days of receipt of Purchaser's notice, Provider shall specify the Option Price as determined by Provider in a commercially reasonable manner, and Purchaser shall then have a period of thirty (30) days after notification of the Option Price to confirm or retract its decision to exercise the purchase option or, if, in Purchaser's sole opinion, the Option Price stated by Provider is not equal to the Fair Market Value of the System, to dispute the determination of the Fair Market Value of the System. In the event Purchaser confirms its exercise of the purchase option in writing to Provider (whether before or after any determination of the Fair Market Value determined pursuant to Section 2.4), (i) the Parties shall promptly execute all documents necessary to (A) cause title to the System to pass to Purchaser on the Purchase Date, free and clear of any Liens, and (B) assign all vendor warranties for the System to Purchaser, and (i) Purchaser shall pay the Option Price to Provider on the Purchase Date, such payment to be made in accordance with any previous written instructions delivered to Purchaser by Provider or Provider's Financing Party, as applicable, for payments under the Agreement. Upon execution of the documents and payment of the Option Price, in each case as described in the preceding sentence, the Agreement shall terminate automatically without further liability to either Party with respect to the Agreement. For the avoidance of doubt, payment of the Option Price shall be in lieu of and instead of any payments as described in Section 2.2 hereof. In the event Purchaser retracts its exercise of. Or does not timely confirm, the purchase option, the provisions of the Agreement shall remain applicable as if the Purchaser had not exercised any option to purchase the System.

2.4 Determination of Fair Market Value. If the Option Price indicated by Provider in accordance with Section 2.3 is equal to the Fair Market Value (as determined by Provider in a commercially reasonable manner) and Purchaser disputes such stated Fair Market Value within thirty (30) days of receipt of such notice from Provider, then the Parties shall mutually select an independent appraiser with experience and expertise in the commercial-scale photovoltaic industry. Such appraiser shall subject to applicable Internal Revenue Service processes and requirements act in a commercially reasonable manner and in good faith to determine the Fair Market Value of the System as of the applicable Purchase Date and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by Purchaser if such appraisal results in a value equal or greater than the value provided by Provider pursuant to Section 2.3; otherwise, the Parties shall equally share such cost.

2.5 Removal of System at Expiration. Subject to Purchaser's exercise of its purchase option under Section 2.3, upon the expiration or earlier termination of the Agreement, Provider shall, at Provider's expense, remove all of its tangible property comprising the System from the Premises on a mutually convenient date but in no case later than one hundred and twenty (120) days after the Expiration Date. The Premises shall be returned to its original condition, except for System mounting pads or other support structures and ordinary wear and tear. If the System is to be located on a roof, then in no case shall Provider's removal of the System affect the integrity of Purchaser's roof, which shall be as leak-proof and structurally sound as it was prior to removal of the System (other than ordinary wear and tear). For purposes of Provider's removal of the System, Purchaser's covenants pursuant to Section 7.2 shall remain in effect until the date of actual removal of the System. Provider shall leave the Premises in neat and clean order. If Provider fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Premises to its original condition (other than System mounting pads or other support structures and ordinary wear and tear) at Provider's cost.

2.6 Conditions of the Agreement Prior to Installation. In the event that any of the following events or circumstances occur prior to the Commercial Operation Date, Provider may (at its sole discretion) terminate the Agreement, in which case neither Party shall have any liability to the other except for any such liabilities that may have accrued prior to such termination: (a) the Provider determines that the Premises, as is, is insufficient to accommodate the System; (b) there exist site conditions (including environmental conditions) or construction requirements that were not known as of the Effective Date and that could reasonably be expected to materially increase the cost of Installation Work or would adversely affect the electricity production from the System as designed; (c) there is a material adverse change in the regulatory environment, incentive program or federal or state tax code (including the expiration of any incentive program or tax incentives in effect as of the Effective Date) that could reasonably be expected to adversely affect the economics of the installation for Provider and its investors; (d) Provider is unable to obtain financing for the System on terms and conditions satisfactory to it; (e) Provider has not received a fully executed (i) license substantially in the form of Exhibit B from the owner of the Premises, and (ii) a release or acknowledgement from any mortgagee of the Premise, if required by Provider's Financing Party, to establish the priority of its security interest in the System, and (iii) such other documentation as may be reasonably requested by Provider to evidence Purchaser's ability to meet its obligations under Section 7.2(d)(ii) to ensure that Provider will have access to the Premises throughout the Term; (f) there has been a material adverse change in the rights of Purchaser to occupy the Premises or Provider to construct the System on the Premises; (g) Purchaser has not received evidence reasonably satisfactory to it that interconnection services will be available with respect to Energy generated by the System under a net-metering arrangement mutually agreeable to the Parties, subject to applicable law and the utility's requirements; or (h) Purchaser has determined that there are easements, CCRs or other liens or encumbrances that would materially impair or prevent the installation, operation, maintenance or removal of the System.

3. PURCHASER RIGHT TO REVIEW CONSTRUCTION, INSTALLATION AND TESTING OF SYSTEM.

3.1 Installation Work. Provider will cause the System to be designed, engineered, installed and constructed substantially in accordance with Schedule 1, Applicable Law, and consistent with generally accepted utility practices. Upon request, Purchaser shall have the right to review all construction plans and designs, including engineering evaluations of the impact of the System. Provider shall perform the Installation Work at the Premises between the hours of 7:00 a.m. and

7:00 p.m. unless otherwise agreed to in writing by the owner of the Premises. Installation Work shall be conducted in a manner that minimizes inconvenience to and interference with the use of the Premises to the maximum extent commercially practical.

3.2 Approvals; Permits. Purchaser shall reasonably assist Provider in obtaining all necessary approvals and permits including but not limited to those related to the Local Electric Utility, any Governmental Authority, and any waivers, approvals or releases required pursuant to any applicable CCR.

3.3 System Acceptance Testing. (a) Provider shall conduct testing of the System in accordance with such methods, acts, guidelines, standards and criteria reasonably accepted or followed by commercial solar photovoltaic energy system integrators and operators in the United States. (b) If the results of such testing indicate that the System is capable of generating Energy for at least four (4) consecutive hours, using such instruments and meters as have been installed for such purposes, and the System has been approved for interconnected operation by the Local Electric Utility and any other Governmental Authority from whom approval is required to operate the System, then Provider shall send a written notice to Purchaser to that effect, and the date of such notice shall be the “Commercial Operation Date.”

4. SYSTEM OPERATIONS.

4.1 Provider as Owner and Operator. The System will be owned by Provider or Provider’s Financing Party and will be operated and maintained and, as necessary, repaired by Provider at its sole cost and expense; provided, that any repair or maintenance costs incurred by Provider as a result Purchaser’s negligence or breach of its obligations hereunder shall be reimbursed by Purchaser.

4.2 Metering. Provider shall install and maintain a utility grade kilowatt-hour (kWh) meter for the measurement of electrical energy provided by the System.

4.3 System Disruptions. (a) Substitution of Premises. If, for reasons other than Provider’s negligence, willful misconduct, or breach of its obligations hereunder or as otherwise provided for in this Agreement, Provider ceases to have access rights to the Premises as necessary to operate the System prior to the Expiration Date, then Purchaser shall either (i) provide Provider with a mutually agreeable substitute premises in a location with similar capability to accommodate the System, or (ii) terminate the Agreement pursuant to Section 2.2. In connection with such substitution, Purchaser and Provider shall amend this Agreement to specify the substitute premises. Purchaser shall also provide any new owner, lessor, or mortgagee consents or releases required by Provider’s Financing Party in connection with the substitute premises. If Purchaser is unable to obtain such consents and releases for a substitute premises, the substitution shall not be allowed and Purchaser shall terminate the Agreement pursuant to Section 2.2. Purchaser shall pay all reasonable costs associated with relocation of the System including all costs and expenses incurred by or on behalf of Provider in connection with removal of the System from the existing Premises and repair or maintenance of the Premises, if applicable, and installation and testing of the System at such substitute premises and all applicable interconnection fees and expenses at the substitute premises, as well as costs of new title search and other out of pocket expenses connected to preserving and re-filing the security interest of Provider’s Financing Party in the System. Provider shall make commercially reasonable efforts to remove all of its tangible property comprising the System from the vacated Premises prior to the termination of Purchaser’s rights to use such Premises. Upon removal of the tangible property comprising the System from the Premises, at the Purchaser’s expense, the Premises shall be returned to its original condition, except for incidental hardware or other support structures and ordinary wear and tear. In connection with any substitution of Premises, Purchaser shall

continue to make all payments for the Services as if Provider was capable of operating the System during any transfer or construction time period (the “Transfer Time”) and shall reimburse Provider for any actual, documented lost or recaptured revenue associated with lost production of Environmental Attributes during the Transfer Time. For the purpose of calculating Services Payments that would have otherwise been due and Environmental Attributes that would have been generated during such Transfer Time, Services shall be deemed to have been produced during the Transfer Time at the average rate over the preceding twelve (12) months (or, if the substitution occurs within the first twelve (12) months of operation, the average over such period of operation), discounting for any planned or other maintenance outages of the System that had been scheduled by the Provider to occur during such Transfer Time.

(b) System Disruptions. In the event that (1) the owner or lessee of the Premises repairs the Premises for any reason not directly related to damage caused by the System, and such repair requires the partial or complete temporary disassembly or movement of the System, or (2) any act or omission of Purchaser or Purchaser’s employees, Affiliates, or agents (collectively, a “Purchaser Act”) results in a disruption or outage in System production, then, in either case, Purchaser shall (i) pay Provider for all work required by Provider to disassemble or move the System and (ii) continue to make all payments for the Services during such period of System disruption (the “Disruption Period”) as if Provider was capable of operating the System during such Disruption Period, and (iii) reimburse Provider for any actual, documented lost or recaptured revenue associated with lost production of Environmental Attributes during the Disruption Period. For the purpose of calculating Services Payments that would otherwise have been due for such Disruption Period, Services shall be deemed to have been produced at the average rate over the preceding twelve (12) months (or, if the disruption occurs within the first twelve (12) months of operation, the average over such period of operation), discounting for any planned or other maintenance outages of the System that had been scheduled by the Provider to occur during such Disruption Period.

5. DELIVERY OF SERVICES.

5.1 Purchase Requirement. Purchaser agrees to purchase one hundred percent (100 %) of the Energy generated by the System during each relevant month of the Term at the kWh Rate specified in Schedule 2. The Energy delivered by Provider to Purchaser hereunder shall be referred to as “Services”.

5.2 Estimated Annual Production. The annual estimate of Energy generation with respect to the System for any given year as determined pursuant to this Section shall be the “Estimated Annual Production.” The Estimated Annual Production for each year of the Term is set as forth in Schedule 4.

5.3 Environmental Attributes. Purchaser’s purchase of Services does not include Environmental Attributes associated with the Energy generated by the System, which shall be retained by Provider or Provider’s Financing Party for the duration of the Term. Purchaser disclaims any right to such Environmental Attributes based upon the installation of the System at the Premises, and shall, at the request of Provider, execute any document or agreement reasonably necessary to fulfill the intent of this Section 5.3. To avoid any conflicts with fair trade rules regarding claims of renewable energy use and to help ensure that Environmental Attributes will be certified by Green-e® or a similar organization, Purchaser shall submit to Provider for approval any press releases regarding Purchaser’s use of renewable energy from the System and shall not submit for publication any such releases without the prior written approval of Provider. 5.4 Title to System. Subject to Purchaser’s exercise of its purchase option under Section 2.3, throughout the Term, Provider or Provider’s Financing Party shall be the legal and beneficial owner of the System at all times, and the System shall remain the personal property of Provider or Provider’s Financing Party

and shall not attach to or be deemed a part of, or fixture to, the Premises. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Purchaser covenants that it will use reasonable commercial efforts to place all parties having an interest in or lien upon the real property comprising the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as attaching to the System as a fixture of the Premises, Purchaser shall provide, at Provider's request, a disclaimer or release from such lien holder. If Purchaser is the fee owner of the Premises, Purchaser agrees to file, at the request of Provider and at Provider's sole expense, a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction of the Premises. If Purchaser is not the fee owner, Purchaser will, at Provider's request, use commercially reasonable efforts to obtain such agreement to file from such owner or consent of such owner to have Provider make such filing on its behalf; provided that such filing will be made at Provider's request and at Provider's sole expense.

6. PRICE AND PAYMENT.

6.1 Consideration. Purchaser shall pay to Provider a monthly payment for the Services provided during each month in an amount equal to the Energy generated by the System and delivered to Purchaser in such month, multiplied by the kWh Rate stated in Schedule 2 for the applicable contract year in which such month occurs ("Services Payment").

In the event that Purchaser is a municipality or other Governmental Authority, if sufficient funds to provide for payment(s) owed by Purchaser under this Agreement are not appropriated, the Purchaser shall terminate this Agreement upon notice in writing to Provider in accordance with the terms of Section 2.2.

6.2 Invoice. Provider shall invoice Purchaser in accordance with the electric service provider's billing cycle for the Services provided. Invoices shall be submitted to Purchaser promptly following receipt of the electric service provider's billing statement, with each invoice covering the Services rendered during the corresponding billing cycle. The first invoice shall be submitted on or about the first Invoice Date following the Commercial Operation Date, and subsequent invoices shall be submitted on or about the first day of each month thereafter. The last invoice shall include production only through the Expiration Date of this Agreement.

6.4 Method of Payment. Purchaser shall make all payments under the Agreement by electronic funds transfer in immediately available funds to the account designated by Provider from time to time. Interest for any unpaid balance will accrue pursuant to Chapter 302 of Texas State Finance Code that is 30 days past due. All payments made hereunder shall be non-refundable, be made free and clear of any tax, levy, assessment, duties or other charges and not subject to reduction, withholding, set-off, or adjustment of any kind.

6.5 Disputed Payments. If a bona fide dispute arises with respect to any invoice, Purchaser shall not be deemed in default under the Agreement and the Parties shall not suspend the performance of their respective obligations hereunder, provided that Purchaser shall not be required to pay the disputed amounts owed hereunder until such dispute has been resolved by the Parties. If an amount disputed by Purchaser is subsequently deemed to have been due pursuant to the applicable invoice, interest shall accrue on such amount pursuant to Chapter 302 of Texas State Finance Code from the date becoming past due under such invoice until the date paid.

7. GENERAL COVENANTS.

7.1 Provider's Covenants. Provider covenants and agrees to the following: (a) Notice of Damage or Emergency. Provider shall (i) promptly notify Purchaser if it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System, (ii) immediately notify Purchaser it becomes aware of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises in connection with this Agreement.

(b) System Condition. Provider shall take all actions reasonably necessary to ensure that the

System is capable of providing Services at a commercially reasonable continuous rate.

(c) Governmental Approvals. While providing the Installation Work, Services, and System Operations, Provider shall obtain and maintain and secure all Governmental Approvals required to be obtained and maintained and secured by Provider and to enable Provider to perform such obligations.

(d) Health and Safety. Provider shall take all necessary and reasonable safety precautions with respect to providing the Installation Work, Services, and System Operations and shall comply with all Applicable Laws pertaining to the health and safety of persons and real and personal property.

(e) Liens. Other than a Financing Party's security interest in or ownership of the System, Provider shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature ("Liens") on or with respect to the Premises or any interest therein, in each case to the extent such Lien arises from or is related to Provider's performance or non-performance of its obligations hereunder. If Provider breaches its obligations under this Section, it shall (i) immediately notify Purchaser in writing, (ii) promptly cause such Lien to be discharged and released of record without cost to Purchaser, and (iii) defend and indemnify Purchaser against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

7.2 Purchaser's Covenants. Purchaser covenants and agrees as follows: (a) Notice of Damage or Emergency. Purchaser shall (i) promptly notify Provider if it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System; (ii) immediately notify Provider if it becomes aware of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises in connection with this Agreement.

(b) Liens. Other than as provided for in this Agreement, Purchaser shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the System or any interest therein. If Purchaser breaches its obligations under this Section, it shall immediately notify Provider in writing, shall promptly cause such Lien to be discharged and released of record without cost to Provider, and subject to the availability of lawful appropriations and consistent with Section 8 of the State Court of Claims Act, Purchaser shall hold Provider harmless from and indemnify it for any final judgment of a court of competent jurisdiction to the extent attributable to the negligence of the Purchaser or of its officers or employees when acting within the course and scope of their employment. .

(c) Consents and Approvals. Purchaser or Provider shall ensure that any authorizations required of Purchaser or Provider under this Agreement are provided in a timely manner. To the extent that only Purchaser is authorized to request, obtain or issue any necessary approvals, permits, rebates or other financial incentives, Purchaser shall reasonably cooperate with Provider, at Provider's request, to obtain such approvals, permits, rebates or other financial incentives.

(d) Access to Premises, Grant of License. Purchaser hereby grants to Provider a commercial license (the "**License**") commencing on the Effective Date and, subject to Purchaser's right to

revoke the License as described herein, continuing until the date that is one hundred and twenty (120) days after the expiration or termination of this Agreement (the “**License Term**”), containing all the rights necessary for Provider to use and occupy portions of the Premises (the “**License Area**”) for the installation, operation and maintenance of the System pursuant to the terms and conditions of this Agreement, including ingress and egress rights to the Premises for Provider and its employees, and access to electrical panels and conduits to interconnect or disconnect the System with the Premises’ electrical wiring. During the License Term Purchaser shall ensure that Provider’s rights under the License and Provider’s access to the Premises are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access. Regardless of whether Purchaser is owner of the Premises or leases the Premises from a landlord, Purchaser hereby covenants that (i) Provider shall have access to the Premises and System during the Term of this Agreement and for so long as needed after termination to remove the System pursuant to the applicable provisions herein, and (ii) neither Purchaser nor Purchaser’s landlord will interfere or handle any Provider equipment or the System without written authorization from Provider; provided, however, that Purchaser and Purchaser’s landlord shall at all times have access to and the right to observe the Installation Work or System removal. Notwithstanding anything to the contrary in this Agreement, Purchaser may, at any time during the Term, upon 60 days’ prior written notice to Provider, revoke the License, provided that any such revocation of the License, except for a revocation for a Provider Default, shall act as an early termination of this Agreement pursuant to Section 2.2.

(e) Temporary storage space during installation or removal. Purchaser shall use commercially reasonable efforts to obtain an agreement for sufficient space at the Premises for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the Installation Work, System Operations or System removal, and access for rigging and material handling.

(f) Insolation. Purchaser understands that unobstructed access to sunlight (“**Insolation**”) is essential to Provider’s performance of its obligations and a material term of this Agreement. Purchaser shall not in any way cause and, where possible, shall not in any way permit any interference with the System’s Insolation. If Purchaser becomes aware of any activity or condition that could diminish the Insolation of the System, Purchaser shall notify Provider immediately and shall cooperate with Provider in preserving the System’s existing Insolation levels.

8. REPRESENTATIONS & WARRANTIES.

8.1 Representations and Warranties Relating to Agreement Validity. In addition to any other representations and warranties contained in the Agreement, each Party represents and warrants to the other as of the Effective Date that:

- (a) it is duly organized and validly existing and in good standing in the jurisdiction of its organization;
- (b) it has the full right and authority to enter into, execute, deliver, and perform its obligations under the Agreement and shall maintain such right and authority throughout the Term;
- (c) it has taken all requisite corporate or other action to approve the execution, delivery, and performance of the Agreement;
- (d) the Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws now or hereafter in effect relating to creditors’ rights generally;
- (e) there is no litigation, action, proceeding or investigation pending or, to the best of its knowledge, threatened before any court or other Governmental Authority by, against, affecting or

involving any of its business or assets that could reasonably be expected to materially adversely affect its ability to perform its obligations hereunder or carry out the transactions contemplated herein; and

(f) its execution and performance of the Agreement and the transactions contemplated hereby do not constitute a breach of any term or provision of, or a default under, (i) any contract or agreement to which it or, in the case of Provider, any of its Affiliates is a party or by which it or, in the case of Provider, any of its Affiliates or its or their property is bound, (ii) its organizational documents, or (iii) any Applicable Laws.

8.2 Representations Regarding Security Interest. Purchaser has been advised that part of the collateral securing the financial arrangements for the System may be the granting of a first priority perfected security interest (the “Security Interest”) in the System to a Financing Party. In connection therewith, Purchaser represents and warrants as follows:

(a) to Purchaser’s knowledge, the granting of the Security Interest will not violate any term or condition of any covenant, restriction, lien, financing agreement, or security agreement affecting the Premises;

(b) Purchaser is aware of no existing lease, mortgage, security interest or other interest in or lien upon the Premises that could attach to the System as an interest adverse to Provider’s Financing Party’s Security Interest therein;

(c) to Purchaser’s knowledge, there exists no event or condition which constitutes a default, or would, with the giving of notice or lapse of time, constitute a default under this Agreement. Any Financing Party shall be an intended third party of this Section 8.2.

9. TAXES AND GOVERNMENTAL FEES.

Purchaser is not required to pay tax as a public school district of the State of Texas. Provider is responsible for paying Taxes, which means any federal, state and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges or other similar charges. Provider is also responsible to pay any income taxes or similar taxes imposed on Provider’s revenues due to the sale of energy under this Agreement.

10. FORCE MAJEURE.

10.1 Definition. “Force Majeure Event” means includes, but is not limited to any act or event that prevents the affected Party from performing its obligations in accordance with the Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (provided that the claiming Party shall not be required to suffer prejudice or use commercially unreasonable measures to remedy a Force Majeure event). A Force Majeure Event shall not be based on the economic hardship or financial condition of either Party, except that the failure of the Texas state legislature to adequately fund Purchaser in any year during the term of this Agreement shall qualify as a Force Majeure event. Force Majeure shall not be based on (i) Purchaser’s inability economically to use or resell the Services purchased hereunder; or (ii) the loss or failure of Provider’s supply.

10.2 Excused Performance. Except as otherwise specifically provided in the Agreement, neither Party shall be considered in breach of the Agreement or liable for any delay or failure to comply

with the Agreement (other than the failure to pay amounts due hereunder), if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief under this Section 10 shall: (i) promptly notify the other Party in writing of the existence of, and details regarding, the Force Majeure Event; (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event; (iii) notify the other Party in writing of the cessation or termination of said Force Majeure Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter.

10.3 Termination in Consequence of Force Majeure Event. If a Force Majeure Event shall have occurred that has affected a Party's performance of its obligations hereunder and that has continued for a continuous period of one hundred eighty (180) days, then the Party not affected by Force Majeure shall be entitled to terminate the Agreement upon ninety (90) days' prior written notice to the affected Party. If at the end of such ninety (90) day period such Force Majeure Event shall still continue, the Agreement shall automatically terminate. Upon such termination for a Force Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination), and the provisions of Section 2.2 (Early Termination) shall be inapplicable.

11. DEFAULT.

11.1 Provider Defaults and Purchaser Remedies. (a) Provider Defaults. The following events shall be defaults with respect to Provider (each, a "Provider Default"): (i) A Bankruptcy Event shall have occurred with respect to Provider; (ii) Provider fails to pay Purchaser any undisputed amount owed under the Agreement within ten (10) Business Days from receipt of notice from Purchaser of such past due amount; (iii) Provider breaches or fails to perform any material term of the Agreement including but not limited to Provider's failure to provide service and/or maintenance to the System during the Term of this Agreement, or the failure of the System to provide at least 95% of the Estimated Annual Production as shown in Schedule 4 of this Agreement at any time (other than events that are otherwise specifically covered in this Section 11.1 as a separate Provider Default) and such breach or failure is not cured within thirty (30) days after Purchaser's written notice of such breach or failure; (iv) any representation or warranty made in this Agreement by Provider is not true and complete in any material respect when given or at any time during the Term; (v) INTENTIONALLY OMITTED; and (vi) Provider consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of Provider under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to Purchaser.

(b) Purchaser's Remedies. If a Provider Default described in Section 11.1(a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Section 12, Purchaser may terminate the Agreement and shall be entitled to liquidated damages in an amount equal to the positive difference, if any, of the Fair Market Value of the Services anticipated to be provided over the remaining Term, as determined by Purchaser in a commercially reasonable manner, and the Services Payments associated with such Services ("Termination Amount"). Upon termination of this Agreement in accordance with this Section, Purchaser shall promptly calculate the Termination Amount, if any, owed by Provider and submit an invoice to Provider for such amount. Provider shall pay such Termination Amount within ten (10) Business Days after receipt of such invoice in accordance with the payment directions specified by Purchaser ("Termination Amount Payment Date"). In the event Provider, in good faith, disputes Purchaser's calculation of the Termination Amount, the Parties shall then act in good faith to resolve any such dispute, including but not limited to utilizing a procedure substantially similar to that provided for in Section 2.4 in the event that the Parties are unable to resolve such dispute; provided however that if through such procedures the Termination Amount is determined to be equal to or greater than that calculated by Purchaser, Provider shall pay all costs associated with such procedure, or otherwise the Parties shall share such costs equally. (c) No Early Termination

Fee. Section 2.2 of the Agreement shall not apply to any termination of the Agreement by Purchaser pursuant to this Section 11.1.

11.2 Purchaser Defaults and Provider's Remedies. (a) Purchaser Default. The following events shall be defaults with respect to Purchaser (each, a "Purchaser Default"): (i) A Bankruptcy Event shall have occurred with respect to Purchaser; (ii) Purchaser breaches or fails to perform any material term of the Agreement (other than events that are otherwise specifically covered in this Section 11.2 as a separate Purchaser Default) and such breach or failure is not cured within thirty (30) days after Provider's written notice of such breach or failure; (iii) Purchaser fails to pay Provider any undisputed amount due Provider under the Agreement within thirty (30) days from receipt of notice from Provider of such past due amount; (iv) any representation or warranty made in this Agreement by Purchaser is not true and complete in any material respect when given or at any time during the Term; and (v) Purchaser consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of Purchaser under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to Provider.

(b) Provider's Remedies. If a Purchaser Default described in Sections 11.2(a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Section 12, Provider may terminate this Agreement and upon such termination, and Provider shall be entitled to receive from Purchaser, as liquidated damages, an amount equal to amounts previously accrued under this Agreement and then owed by Purchaser to Provider for Services rendered, and (iii) removal cost as provided in section 11.3

11.3 Removal of System. Upon any termination of the Agreement pursuant to this Section 11, Provider will remove the System pursuant to Section 2.5 hereof at the expense of the defaulting Party.

12. LIMITATIONS OF LIABILITY.

12.1 THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE DAMAGES. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT OR OTHERWISE. . TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

NOTWITHSTANDING THE FOREGOING, PROVIDER SHALL REMAIN LIABLE, WITHOUT MONETARY LIMITATION, FOR DIRECT DAMAGES FOR PERSONAL INJURY, DEATH OR DAMAGE TO REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY ATTRIBUTABLE TO THE NEGLIGENCE OR OTHER TORT OF THE PROVIDER, ITS OFFICERS, EMPLOYEES OR AGENTS.

13. ASSIGNMENT.

13.1 Assignment by Purchaser. Purchaser may assign or transfer this Agreement to any other Texas State agency or public benefit corporation that is the successor in interest of the district and that is backed by the full faith and credit of the State of Texas without the Provider's prior consent, provided that (a) Purchaser shall promptly notify Seller of any such assignment in writing, (b) such assignee shall assume all of Purchaser's obligations under the Agreement in writing; and (c) such assignment shall in no event compromise the tax treatment of this Agreement or the Provider. Any assignment that does not comply with the forgoing shall be invalid.

14. NOTICES.

14.1 Notice Addresses. Unless otherwise provided in the Agreement, all notices and communications concerning the Agreement shall be in writing and addressed to the other Party (or Financing Party, as the case may be) at the addresses set forth in Schedule 6, or at such other address as may be designated in writing to the other Party from time to time.

14.2 Notice. Unless otherwise provided herein, any notice provided for in the Agreement shall be hand delivered, sent by registered or certified U.S. Mail, postage prepaid, or by commercial overnight delivery service, or transmitted by facsimile and shall be deemed delivered to the addressee or its office when received at the address for notice specified above if received during normal business hours on a Business Day or otherwise such notice shall be deemed delivered on the next Business Day.

14.3 Address for Invoices. All invoices under the Agreement shall be sent to the address provided by Purchaser. Invoices shall be sent by regular first class mail postage prepaid.

15. CONFIDENTIALITY.

15.1 Confidentiality Obligation. If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the financing, design, operation and maintenance of the System or of Purchaser's business ("Confidential Information") to the other or, if in the course of its performance of this Agreement, or if in the course of negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of the Agreement. Notwithstanding the above, a Party may with the consent of the other Party (such consent not to be unreasonably conditioned, delayed or withheld, provide such

Confidential Information to its officers, directors, members, managers, employees, agents, attorneys, accountants and consultants, Affiliates, lenders, and potential assignees of the Agreement or acquirers of Provider or its Affiliates (provided and on condition that such potential assignees be bound by a written agreement restricting use and disclosure of Confidential Information) (collectively, “Representatives”), in each case whose access is reasonably necessary. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by its Representatives. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party’s need for it has expired or upon the request of the disclosing Party.

15.2 Permitted Disclosures. Notwithstanding any other provision herein, neither Party shall be required to hold confidential any information that: (a) becomes publicly available other than through the receiving Party or its Representatives; (b) is required to be disclosed by a Governmental Authority, under Applicable Law or pursuant to a validly issued subpoena or required filing, but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement; (c) is independently developed by the receiving Party; or (d) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. The Parties acknowledge that this Agreement is subject to the Texas State Freedom of Information Law (“FOIL”) as set forth in Article 6 of the Texas State Public Officers Law, and that only Provider’s proprietary information that satisfies the requirements of § 87(2)(d) of the Public Officers Law shall be excepted from disclosure thereunder.

15.3 Goodwill and Publicity. Neither Party shall use the name, trade name, service mark, or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of the Agreement, and each Party shall have the right to promptly review, comment upon, and approve any publicity materials, press releases, or other public statements by the other Party that refer to, or that describe any aspect of, the Agreement; provided that no such publicity releases or other public statements (except for filings or other statements or releases as may be required by Applicable Law) shall be made by either Party without the prior written consent of the other Party. At no time will either Party acquire any rights whatsoever to any trademark, trade name, service mark, logo or other intellectual property right belonging to the other Party. Notwithstanding the foregoing, Purchaser agrees that Provider may, at its sole discretion, take photographs of the installation process of the System and/or the completed System, and Provider shall be permitted to use such images (regardless of media) in its marketing efforts, including but not limited to use in brochures, advertisements, websites and news outlet or press release articles. The images shall not include any identifying information without Purchaser’s prior written authorization.

15.4 Enforcement of Confidentiality Obligation. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Article by the receiving Party or its Representatives or other Person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party is entitled to seek equitable relief, including

injunctive relief and specific performance, in the event of any breach of the provisions of this Article. To the fullest extent permitted by Applicable Law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Article, but shall be in addition to all other remedies available at law or in equity.

16. INDEMNITY.

16.1 Provider's Indemnity. Subject to Section 12, Provider agrees that it shall indemnify and hold harmless Purchaser, its permitted successors and assigns and their respective directors, officers, members, shareholders and employees (collectively, the "Purchaser Indemnified Parties") from and against any and all Losses incurred by the Purchaser Indemnified Parties to the extent arising from or out of the following: (a) any claim by a third party for or arising out of any injury to or death of any Person or loss or damage to property of any Person to the extent arising out of Provider's negligence or willful misconduct or (b) any claim by a third party regarding any infringement of patents or the improper use of other proprietary rights by Provider or its employees or representatives that may occur in connection with the performance of the Installation Work, System Operations, and the ownership and use of the System. Provider shall not, however, be required to reimburse or indemnify any Purchaser Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Purchaser Indemnified Party.

16.2 Purchaser's Indemnity. Purchaser is a public school district of the State of Texas and cannot agree to indemnify third parties.

17. INSURANCE.

17.1 Generally. Provider shall each maintain the following insurance coverages in full force and effect throughout the Term either through insurance policies or acceptable self-insured retentions: (a) Workers' Compensation Insurance as may be from time to time required under applicable federal and state law, (b) Commercial General Liability Insurance with limits of not less than \$2,000,000 general aggregate, \$2,000,000 per occurrence, and (c) automobile insurance with a combined single limit of not less than \$1,000,000. Additionally, Provider shall carry adequate property loss insurance on the System. The amount and terms of insurance coverage will be determined at Provider's sole discretion.

17.2 Certificates of Insurance. Upon Purchaser's request, Provider shall furnish current certificates evidencing that the insurance required under Section 17.1 is being maintained. The insurance policy provided hereunder shall contain a provision whereby the insured agrees to give the Purchaser thirty (30) days' written notice before the insurance is cancelled or materially altered, ten (10) days' notice in case of a termination or cancellation due to non-payment of premium. Purchaser is self-insured for its general liability exposure, workers compensation and

automotive liability. Purchaser's liability for damages or injury is limited by the Texas Tort Claims Act, codified in Chapter 101 of the Texas Civil Practice and Remedies Code. Purchaser agrees to notify Provider of any material change of the status of Purchaser's self-insurance with at least thirty (30) consecutive days; prior written notice.

17.3 Additional Insureds. Provider' Commercial General Liability insurance policy shall be written on an occurrence basis and shall include the Purchaser as an additional insured as its interest may appear.

17.4 Insurer Qualifications. All insurance maintained hereunder shall be maintained with companies authorized by the Texas Department of Financial Services to issue insurance in the State of Texas ("admitted carriers) with an A.M. Best Company rating of "A-" or better, or having a parent company's debt to policyholder surplus ratio of 1:1.

18. MISCELLANEOUS.

18.1 INTENTIONALLY OMITTED.

18.2 Amendments. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Provider and Purchaser and approved by the Texas State Attorney General and Office of Comptroller.

18.3 Industry Standards. Unless expressly defined herein, words having well-known technical or trade meanings shall be so construed.

18.4 Intentionally Omitted

18.5 Limited Effect of Waiver. The failure of Provider or Purchaser to enforce any of the provisions of the Agreement, or the waiver thereof, shall not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance or of any other provision in any instance.

18.6 Survival. The obligations under Sections 2.2 (Early Termination), 2.5 (Removal of System), Section 7 (General Covenant), Sections 7.2(d), (e), (f) and (g) (Purchaser Covenants), Section 8.3 (Exclusion of Warranties), Article 9 (Taxes and Governmental Fees), Article 12 (Limitation of Liability), Article 14 (Notices), Article 15 (Confidentiality), Article 16 (Indemnity), Article 17 (Insurance), Article 18 (Miscellaneous), or pursuant to other provisions of this Agreement that by their sense and context, are intended to survive termination of this Agreement shall survive the expiration or termination of this Agreement for any reason.

18.7 Governing Law. All disputes arising out of the performance or non-performance under this Agreement shall be construed in accordance with the laws of the State of Texas, without regard to principles of conflicts of law. The Parties agree that any dispute hereunder will be litigated in a court of competent jurisdiction in Webb County, Texas.

18.8 Relationship to the Parties. Nothing contained in this Agreement shall be construed to create an association, joint venture, partnership or any other type of entity or relationship between Purchase and Provider, or between either or both of them and any other Party.

Solar Purchase Power Agreement – PEG Capital

18.9 Third-Party Beneficiaries. Except as expressly provided herein to the contrary, this Agreement is intended solely for the benefit of the Parties thereto, and nothing therein will be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a Party thereto.

18.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

18.11 Forward Contract; Service Contract. The Parties acknowledge and agree that this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code. The payment of the Termination Amount or Early Termination Fee made or to be made by one Party to the other Party under this Agreement constitutes a “settlement payment” and/or a “transfer” under the United States Bankruptcy Code. This agreement constitutes a “master netting agreement” and each party is a “master netting agreement participant” within the meaning of the United States Bankruptcy Code. The Parties intend this Agreement to be a “service contract” within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, Provider and Purchaser have executed this Agreement as of the Effective Date.

PROVIDER: PEG Energy, LLC.

By: Alvaro Pequeño

Name: Alvaro Pequeño

Title: Owner

Date: 08/02/2024

PURCHASER: United Independent School District

By: _____

Name: _____

Title: _____

Date _____

Exhibit B

Purchaser acknowledges that Provider will be financing the installation of the System either through a lessor, lender or with financing accommodations from one or more financial institutions and that the Provider may sell or assign the System and/or may secure the Provider's obligations by, among other collateral, a pledge or collateral assignment of this Agreement and a first security interest in the System. Any such financing shall be conducted in accordance with the terms and conditions of the Agreement. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any such financial institutions of which Provider has notified Purchaser in writing Purchaser agrees as follows:

- (a) Consent to Collateral Assignment. Purchaser consents to either the sale or conveyance to a lessor or the collateral assignment by Provider to the a lender that has provided financing of the System, of the Provider's right, title and interest in and to this Agreement, with such sale or conveyance to be conducted in accordance with Section 13.1 of the Agreement.
- (b) Notices of Default. Purchaser will deliver to the Financing Party, concurrently with delivery thereof to Provider, a copy of each notice of default given by Purchaser under the Agreement, inclusive of a reasonable description of Provider default.
- (c) Rights Upon Event of Default. Notwithstanding any contrary term of this Agreement:
 - (i) the Financing Party, as collateral assignee, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under the Agreement in accordance with the terms of the Agreement as if the Financing Party were the Provider and only in the event of a Provider Default. The Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to the System;
 - (ii) the Financing Party shall have the right, but not the obligation, to pay all sums due under the Agreement and to perform any other act, duty or obligation required of Provider thereunder or cause to be cured any default of Provider thereunder in the time and manner provided by the terms of the Agreement as if such Financing Party were Provider; and
 - (iii) upon the exercise of remedies under its security interest in the System, including any sale thereof by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party) in lieu thereof, the Financing Party shall give notice to Purchaser of the transferee or assignee of the Agreement, which shall be conducted in accordance with Section 13.1 of the Agreement as if the Financing Party were the Provider. Any such exercise of remedies shall not constitute a default under this Agreement.

(d) Right to Cure.

- (i) Purchaser will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice by sending notice to the Financing Party (at the address provided by Provider) of its intent to terminate or suspend this Agreement, specifying the condition giving rise to such right. As provided for in Section (c) of this Exhibit B, the Financing Party shall have the right to cure any Provider Default within the time periods specified within the Agreement as if the Financing Party were the Provider.
- (ii) If the Financing Party (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Sub-section (c)(i) of this Exhibit B above, cure all defaults under the Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such person or entity shall no longer be in default under the Agreement, and the Agreement shall continue in full force and effect.

EXHIBIT C

RFP

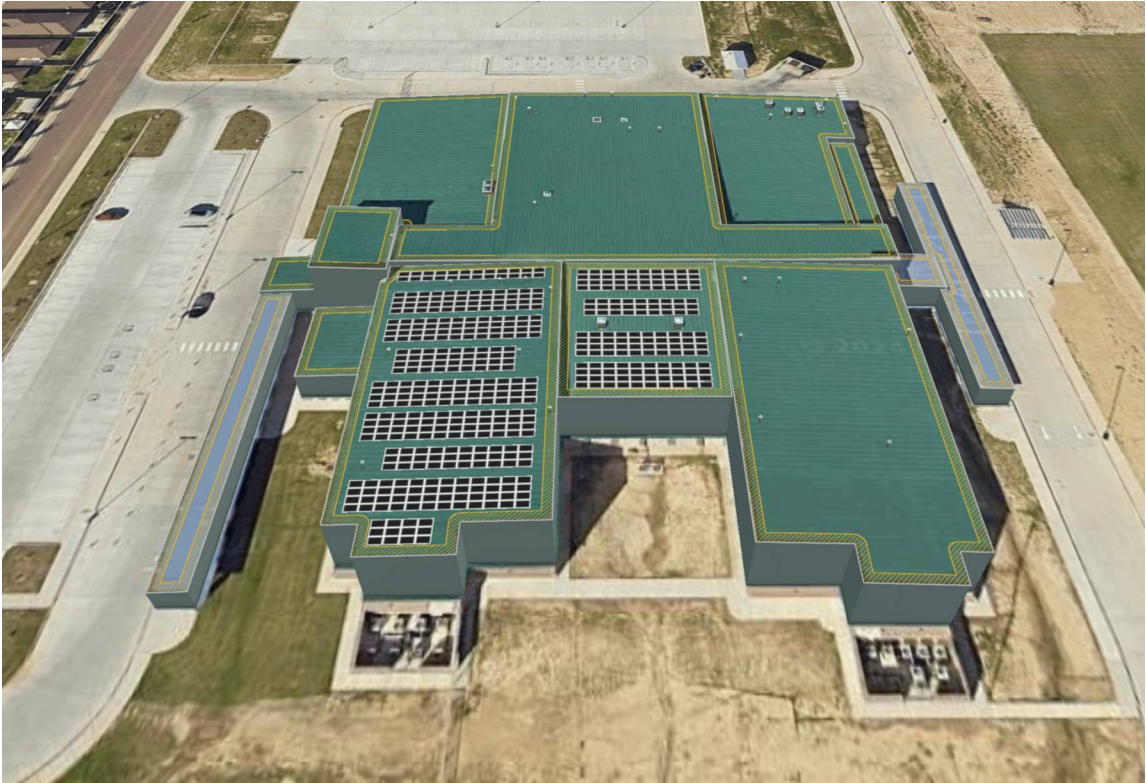


EXHIBIT D

Proposal

2.1.1 PV System Details

General Information

Facility: Meter #1
Address: 4301 Vientos Rd Laredo TX 78046

Solar PV Equipment Description

Solar Panels: (489) Solaria PowerX-400R-4T
Inverters: (2) SolarEdge Technologies SE80KUS [480V]

Solar PV Equipment Typical Lifespan

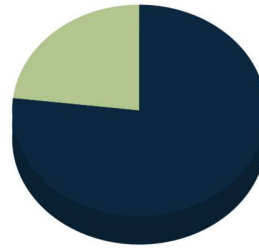
Solar Panels: Greater than 30 Years
Inverters: 25 Years

Solar PV System Rating

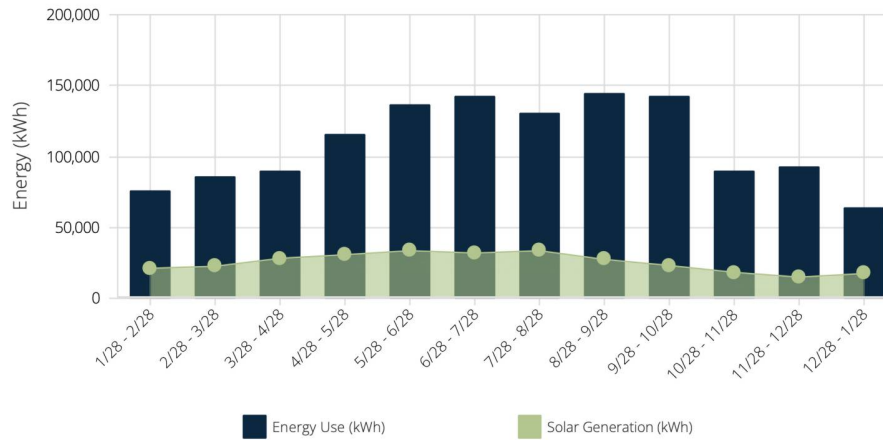
Power Rating: 195,600 W-DC
Power Rating: 178,698 W-AC-CEC

Energy Consumption Mix

Annual Energy Use: 1,308,240 kWh



Monthly Energy Use vs Solar Generation



Schedule 1: Description of Premises and System

System Premises:

4301 VIENTOS ROAD LAREDO, TX 78046

System Size:195.6 kw

Equipment:

Racking: S-5-S Clamp

Modules:Solaria PowerX+-400R

Inverter: SE80KUS

Monitoring:District will have access to both solar production data and panel monitoring through the monitoring system at no extra charge.

Scope:

Provider Responsibilities

- a) **Design Preparation:** Inspect the proposed System mounting site to assure long-term safety and stability.
- b) **Rebate:** Prepare all rebate documentation and communicate with all relevant agencies, if applicable.
- c) **Design:** Produce and provide CAD single-line electrical and layout drawings of the System. Drawings will consist of a complete site plan showing the location of the array, inverters, and routing of conduits, an elevation showing panel visibility from the street, and any details necessary for the plan check and permitting.
- d) **Pre-installation Conference:** Before System installation, conduct a pre-installation conference at the project site to review procedures, schedules, safety, and coordination of the installation. Several conferences may be needed if the complexities and construction schedules so require.
- e) **Procurement, Installation:** Furnish all necessary mounting hardware, photovoltaic modules, electrical equipment, and labor for installation of the System up to the utility grid interconnection point[s] as indicated in this Agreement.
- f) **Permits:** Obtain all permits required to perform the Work.
- g) **Inspections:** Serve as the owner's representative for applicable System inspections
- h) **Site Safety:** Jobsite safety meetings once per week during Installation Work, or upon addition of new personnel to the jobsite.

- i) **Site Access:** During construction, Provider will be responsible for the security of the system, equipment, tools and other materials related to the Provider's Work.
- j) **Acceptance Testing and System Commissioning: Provider shall:**
- i. Conduct an inspection, test and commissioning procedure to insure that the System is installed in a professional manner and consistent with prudent industry practices. A record of the installation and the major components including modules, inverters, transformers, and source circuit combiners will be documented in a test and commissioning report.
 - ii. Test and verify that all non-current-carrying metal parts are solidly grounded and all equipment and System grounding is installed and functional per NEC 2008.
 - iii. Test and verify that phase sequencing, fuse continuity, and open circuit voltage are within the manufacturers recommended range at the DC disconnect.
 - iv. Test and verify that the inverter is operating effectively within the typical start up time and record the DC operating voltage, phase currents, and inverter power.
 - v. Provide complete operation and maintenance manual for the System (two printed copies and one electronic copy). The manual will include: (i) as-built drawings, (ii) as-built shop drawings, (iii) a copy of any required submittals or filing, (iv) product cut sheets, (v) product operation manuals, (vi) a copy of the photo record, (vii) written Utility approval, (viii) product warranties; and (ix) supplier and installer contact information.
- k) **Solar Monitoring System:** Every PEG Capital System comes standard with MONITORING DEVICE proprietary solar monitoring service. MONITORING DEVICE enables PEG Capital to continuously monitor the key performance variables of the System and transmit this data to PEG Capital servers through the Internet. All Purchaser systems will be accessible through a single data access including system-level and aggregated system data. Any additional third-party monitoring, network access or data feed will be cost and responsibility of Purchaser.

2. Purchaser Responsibilities

- a) **Site Preparation:** Responsible for pre-installation site clean-up including removal of all debris and obstacles that may impede System installation.
- b) **Site Access:** Responsible for security access to the System after installation. During construction, Provider will be responsible for the security of the system, equipment, tools and other materials related to the Provider's Work.
- c) **Existing Facilities:** Provide all available design and as-built drawings of the existing facilities to facilitate System design and installation.
- d) **System Management:** Provide a single point of contact for each installation. Purchaser point of contact shall have authority for all written requests for project changes and shall be available on 24 hours' notice. In the event that Provider is providing its services as a subcontractor and its work is part of a larger program, Purchaser will keep Provider informed about the overall progress of the program for which Provider's work is a part, and coordinate Provider's work with the work being performed by Purchaser's other contractors, including giving Provider sufficient advance notice (at least 5 business days)

of when Provider is to perform the work under this Agreement. The foregoing shall not limit Purchaser's obligations under the terms and conditions of this agreement.

3. **Clarifications**

- a) **Work Hours:** Required to work within approved UISD hours, so as to not disrupt daily activities.
- b) **Included in Pricing:** PEG Capital Performance Guarantee, Installation of a solar energy system (includes: design, engineering, permitting, installation, monitoring, rebate application and paperwork processing for solar energy system). Payment of prevailing wage labor. Unforeseen groundwork (including, but not limited to, excavation/circumvention of underground obstacles), upgrades or repair to Purchaser or utility electrical infrastructure payment bonds, performance bonds, tree removal, tree trimming, the payment of special labor wages (i.e. union wages not required).
- c) **No TDS Charges for On-Site Solar Energy:** All energy generated and used on-site by the solar energy system will not be subject to Transmission and Distribution Service (TDS) charges. Since this energy is produced and consumed directly at the facility, it does not pass through the grid and, therefore, is not registered through the meter for consumption, eliminating any associated TDS charges.

Schedule 2 - - kWh Rate

The kWh Rate with respect to the System under the Agreement shall be in accordance with the following schedule:

Year of System Term	kWh Rate (\$/kWh)
1	\$0.055
2	\$0.056
3	\$0.057
4	\$0.057
5	\$0.058
6	\$0.059
7	\$0.060
8	\$0.061
9	\$0.062
10	\$0.063
11	\$0.064
12	\$0.065
13	\$0.066
14	\$0.066
15	\$0.067
16	\$0.068
17	\$0.069
18	\$0.070
19	\$0.072
20	\$0.073

Schedule 3 – Option Price

The Option Price with respect to the system under the agreement shall be calculated in accordance with the following.

Column 2 - Option Price*	
End of Contract Year	Option Price*
5	\$486,384.03
10	\$390,953.21
15	\$283,869.88
20	\$163,711.23
*In accordance with Section 2.3 of the Agreement, the Option Price shall be the greater of the amount set forth above and the Fair Market Value of the System as determined pursuant to Section 2.3	

1. While UISD will consider purchasing the array at Fair Market Value at the end of the twenty years, this is not a certainty.

2. Should the District elect not to purchase the solar arrays, the system removal will be covered by the solar array systems company at no cost.

Schedule 4 – Estimated Annual Production

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year of System Term	Est. Production (kWh)
1	302,820
2	293,735
3	291,855
4	289,988
5	288,132
6	286,288
7	284,455
8	282,635
9	280,826
10	279,029
11	277,243
12	275,469
13	273,706
14	271,954
15	270,213
16	268,484
17	266,766
18	265,058
19	263,362
20	261,677
21	260,002
22	258,338
23	256,684
24	255,042
25	253,409

The values set forth in this table are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

Schedule 5 – Identification of Provider’s Financing Party

Provider shall provide Purchaser with notice information for any Financing Party within a reasonable time after such Financing Party assumes any interest in the System.