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May 28, 2026

MEMO TO: BFED-20(16) File

F R O M: Yuki Lei K. Sugimura, Chair *Yuki Lei K. Sugimura*  
Budget, Finance, and Economic Development Committee

SUBJECT: **TRANSMITTAL OF INFORMATIONAL DOCUMENTS RELATING  
TO JOHNSON CONTROLS, INC. ENERGY PERFORMANCE  
CONTRACT** (BFED-20(16))

The attached informational documents pertain to Item 20(16) on the Committee's agenda.

bfed:ltr:020(16)afile05:kes

Attachments



**AMENDMENT 2 TO  
CONTRACT NO. C7619**

Department: Office of the Mayor – Climate Change, Resiliency, and Sustainability

Project Title: Investment Grade Audit (IGA) Contract for Energy Saving Performance Contract with Countywide Facilities

RFP No.: 21-22/ESPC

Additional Certification Requested from County: \$0.00

This AMENDMENT NO. 2 TO CONTRACT is made and entered into by and between the COUNTY OF MAUI, a political subdivision of the State of Hawaii, whose business address is 200 South High Street, Wailuku, Maui, Hawaii 96793, hereinafter referred to as the “County”, and JOHNSON CONTROLS, INC., a Hawaii corporation, whose mailing address is 550 Paiea Street, Honolulu, Hawaii 96819, hereinafter referred to as the “Contractor”. County and Contractor shall hereinafter be referred to collectively as the “Parties”.

Source of Funds. The source(s) and availability of the funds for this Contract shall be as set forth in the Contract Certification signed by the Director of Finance of the County of Maui on or before the effective date of this Contract. Contract Certification shall be on file in the office of the Director of Finance of the County of Maui.

**RECITALS:**

WHEREAS, the County and the Contractor entered into the following Contract and Amendment(s), if any, with certified availability of funds in the amount and time of performance as indicated:

Contract/ Amend	Date	Additional Certified Amount	Total Certified Amount	Time of Performance	Renewal Option(s)
C7619	5/4/2022	Not applicable	\$150,000.00	180 calendar days from Notice to Proceed (5/9/2022)	60 additional calendar days
Amend 1	9/29/2022	\$0.00	\$150,000.00	Notice to Proceed through January 4, 2023	None

WHEREAS, the Contract and any Amendment(s) thereto listed above shall be hereinafter collectively referred to as the “Contract”;

WHEREAS, the Contract is on file with the Director of Finance;

WHEREAS, the Parties now desire to amend the Contract; and

NOW, THEREFORE, the Parties mutually agree to amend the Contract as follows:

- Section 2, Time of Performance, is amended to read as follows:

**AMENDMENT 2 TO  
CONTRACT NO. C7619**

2. Time of Performance. The Contractor shall commence performance under this Contract upon issuance of the Notice to Proceed, and shall continue performance through January 4, 2024, unless sooner completed, terminated, or extended in compliance with the terms of this Contract.

2. This Amendment may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. The parties agree that they may utilize and shall be bound by their electronic signatures, pursuant to Chapter 489E, Hawaii Revised Statutes.

The entire Contract, as amended herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties execute this Amendment to Contract by their signatures on the dates below, to be effective as of the date of the last signature hereto.

[EXECUTION PAGES TO FOLLOW]

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**AMENDMENT 2 TO  
CONTRACT NO. C7619**

**CONTRACTOR EXECUTION PAGE**

I hereby represent and warrant that I have the legal right and authority to execute this Contract on behalf of the Contractor.

CONTRACTOR:

JOHNSON CONTROLS, INC.

By Scott Averitt  
(Signature)

Scott Averitt  
(Print Name)

Its Area General Manager  
(Title)

Date 12/28/2022 | 7:13 AM PST

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**AMENDMENT 2 TO  
CONTRACT NO. C7619**

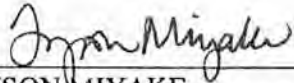
**COUNTY EXECUTION PAGE**

COUNTY OF MAUI:

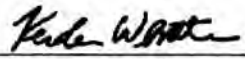
By   
SCOTT K. TERUYA  
Its Director of Finance

Date JAN 06 2023

APPROVAL RECOMMENDED:

  
\_\_\_\_\_  
TYSON MIYAKE  
Chief of Staff

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
KEOLA R. WHITTAKER  
Deputy Corporation Counsel  
LF2022-0485  
2022-12-08 C7619 AMD #2.docx


**AMENDMENT TO CONTRACT CERTIFICATION**

I, **SCOTT K. TERUYA**, Director of Finance of the County of Maui, State of Hawaii,  
do certify that there is available appropriation or balance of an appropriation over and above all  
outstanding contracts, sufficient to cover the amount required by the foregoing contract, i.e.

<u>Appropriation Index</u>	<u>Title</u>	<u>Amount Required</u>
903119B ✓✓	RENEWABLE ENERGY PROGRAMS (6132) ✓	\$0.00 ✓
<u>C 7619 / JOHNSON CONTROLS, INC. /</u>		

**Amendment No.**              3   / Dated:  
Dated this                    16 day of MAY 2023  
Extension of Contract    to: November 30, 2027 ✓

Original Amount	\$ 150,000.00
Prior Amends/CO	\$ 0.00
This Amendment	\$0.00
Total contract	<u>\$ 150,000.00</u> ✓

  
**SCOTT K. TERUYA**  
 Director of Finance

**Time extension only**  
Investment Grade Audit (IGA) Contract for Energy Saving ✓  
Performance Contract Countywide Facilities for MYR  
RFP #21-22/ESPC  
No, Federal funds not being used.

FY 2023

jh  
*5/16/23*  
*115750*

**Energy Performance Contract Amendment No. 3 to**  
**Contract No. C7619 Between**  
**County of Maui and Johnson Controls, Inc.**  
**RFP 21-22 ESPC**

This ENERGY PERFORMANCE CONTRACT AMENDMENT No. 3, dated January 27, 2023 to Investment Grade Audit Contract for Energy Savings Performance Contract, Contract No.C7619 as further amended by the Energy Performance Contract Amendment dated September 29, 2022, is entered into by and between the COUNTY OF MAUI, a political subdivision existing under and by virtue of the laws of the State of Hawaii, with offices at Kalana O Maui, 200 South High Street, Wailuku, Hawaii 96793, (“County”), and JOHNSON CONTROLS, INC., whose principal place of business is 5757 North Green Bay Avenue, Milwaukee, Wisconsin 53201 (“Contractor”).

WITNESSETH THAT:

WHEREAS, the County and the Contractor hereto have entered into an Investment Grade Audit Contract for Energy Savings Performance Contract, identified as Contract No. C7619, dated May 6, 2022 as amended by the Energy Performance Contract Amendment dated September 29, 2022 (“Agreement”), to provide investment grade auditing services and associated energy services contracting for County facilities;

WHEREAS, the County and Contractor desire to amend the Agreement to provide for the implementation of additional energy performance services through entering into this energy performance contracting phase amendment No. 3 (“Energy Performance Contract Amendment No. 3,” “EPC Amendment No. 3” or “Amendment No. 3”);

WHEREAS, in order to implement the EPC Amendment No. 3, the County and Contractor desire to incorporate Appendix A: Scope of Work into the Contract to initiate certain of the services as defined in the Investment Grade Audit Phase 2A Energy Services Contracting for Maui County facilities, Solicitation Document No. RFP-21-22 ESPC (“IGA Phase 2A”);

WHEREAS, in order to further implement the EPC Amendment No. 3, the County and Contractor desire to incorporate Appendix B: Term/Schedule of Work into the Agreement;

WHEREAS, in consideration of the EPC Amendment No. 3, the County and Contractor desire to incorporate Appendix C: Pricing/Certifications into the Agreement.

WHEREAS, County represents that to the best of its knowledge, it is authorized and empowered under applicable laws, ordinances, rules, regulations, and codes to enter into this Agreement, including, Amendment No. 3; this Agreement is a legal, valid and binding obligation; County has complied with all public bidding and procurement rules and laws applicable to this Agreement; County has made the necessary determinations and taken all necessary action to obtain all necessary consents, approvals and authorizations to enter into this Agreement, including Amendment No. 3; and County and Contractor acknowledge that, to further ensure that this recital is true and correct, each party will use its best efforts to incorporate any necessary additional amendments and clarifications to this Agreement prior to March 31, 2023.

WHEREAS, in further consideration of the EPC Amendment No. 3, the County and Contractor desire to attach for reference Appendix D: Financing Submittals into the Agreement;

WHEREAS, Section 19 Modification to Goods and Services Contracts of the General Terms and Conditions authorizes the County at any time to make modifications in the Agreement, as it deems necessary and advisable; and

WHEREAS, the Contractor is willing and able to perform the services under the amended conditions.

NOW, THEREFORE, the parties, in consideration of the mutual agreement set forth herein, agree to amend the AGREEMENT as follows:

I. **RECITALS.** The recitals to this Agreement are incorporated into and shall constitute part of this Agreement.

II. **MODIFICATION OF TERMS**

A. APPENDIX A: SCOPE OF WORK

Add the attached Phase Investment Grade Audit Phase 2A Energy Feasibility Study Report for Energy Services Contracting for Maui County facilities, Solicitation Document No. RFP – 21-22 ESPC (“IGA Phase 2A”).

Section 1 of the Agreement is further amended to the extent inconsistent with this Amended Appendix A.

B. APPENDIX B: TERM/SCHEDULE OF WORK

Add the attached Appendix B.

Appendix B references certain development and construction work to be performed under the power purchase agreement (“PPA”) between County and PPA provider, anticipated to be complete by November 30, 2027, subject to the terms and conditions of the PPA, and for the provision of measurement and verification services by Contractor as described in Appendix A after implementation of the energy conservation measures and acceptance by the County.

Section 2 of the Agreement is further amended to the extent inconsistent with this Amended Appendix B.

C. APPENDIX C: PRICING/CERTIFICATIONS

Add the attached Amended Appendix C: Pricing / Certifications for the Implementation Work or “Work”.

Section 3 of the Agreement is further amended to the extent inconsistent with this Amended Appendix C.

D. APPENDIX D: FINANCING SUBMITTALS

Add the attached Appendix D, Financing Submittals, Power Purchase Agreement No. 20221130. The PPA is a separate and distinct contract from the Agreement and this Amendment No. 3, solely between County and the PPA provider. Any rights and obligations accruing under the PPA shall be the sole rights and obligations of the parties to the PPA and shall not devolve to Contractor.

**III. ALL OTHER TERMS**

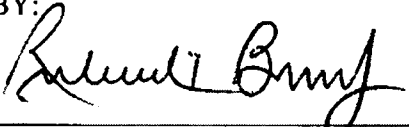
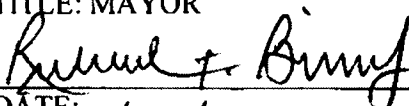
All terms and conditions of the Agreement, not inconsistent with the terms and conditions of this Amendment are herein incorporated and shall remain in full force and effect.

In the event of any conflict or inconsistency between the provisions of this Amendment and any provisions of the Agreement, the provisions of this Amendment shall govern in all aspects.

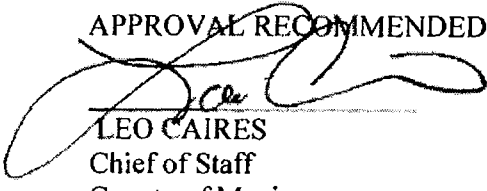
In entering into this Agreement, the parties acknowledge that they have relied solely upon the legal advice of their respective attorneys and each party represents and acknowledges that in executing this Amendment No. 3 they did not rely, and have not relied upon any representation or statement, whether oral or written, made by the other party or by that other Party's agents, representatives or attorneys with regard to the subject matter, basis or effect of this Amendment No. 2 and the Agreement.

By signing below, Contractor hereby certifies that, to the best of its knowledge and belief, cost or pricing data, as defined in Section 3-122-122, HAR, and submitted pursuant to Section 3-122-125, HAR, either actually or by specific identification in writing to the Officer-in-Charge in support of this Amendment, is accurate, complete, and current as of the date of this Amendment. This certification includes the cost or pricing data supporting any advance agreement(s) between the Contractor and the County, which are part of the proposal.

IN WITNESS WHEREOF, the County and the Contractor have executed this Amendment by their duly authorized officers or agents on the day and year first above written.


COUNTY OF MAUI	JOHNSON CONTROLS, INC.
BY: 	BY: <i>William P. Avirett</i>
PRINTED NAME: MAYOR RICHARD BISSEN	PRINTED NAME: WILLIAM P. AVIRETT
TITLE: MAYOR 	TITLE: AREA GENERAL MANAGER
DATE: 1/27/23	DATE: 1/27/23

APPROVAL RECOMMENDED BY:

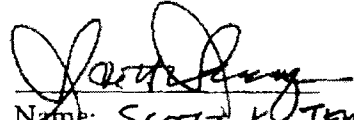


LEO CAIRES  
Chief of Staff  
County of Maui

APPROVAL RECOMMENDED BY:


  
LEO CAIRES  
Chief of Staff  
County of Maui

1/27/23

  
Name: SCOTT K. TERUYA  
Title: ACTING DIRECTOR OF FINANCE  
Department of Finance  
County of Maui

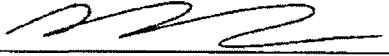
Date Signed: 2/1/23

APPROVED AS TO FORM AND LEGALITY

  
\_\_\_\_\_

Corporation Counsel     *dated*  
County of Maui             *1/27/23*

APPROVED AS TO FORM AND LEGALITY



Corporation Counsel  
County of Maui

Dated 1/27/23

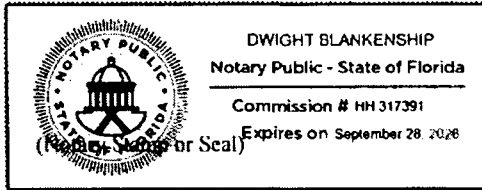
STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF Florida )
) S.S.
COUNTY OF Manatee )

On this 27th day of January, 2023, before me appeared
William P Avirett, and N/A, to me
known, to be the person(s) described in and, who, being by me duly sworn, did say that he/she/they is/are
AREA GENERAL MANAGER and N/A of
JOHNSON CONTROLS, INC the
CONTRACTOR named in the foregoing instrument, and that he/she/they is/are authorized to sign said
instrument on behalf of the CONTRACTOR, and acknowledges that he/she/they executed said instrument
as the free act and deed of the CONTRACTOR.

[Handwritten signature]



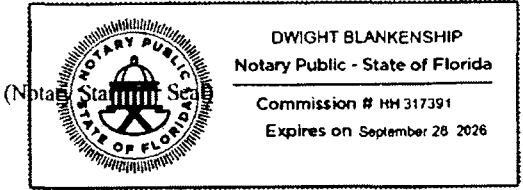
(signature)
DWIGHT BLANKENSHIP
(Print name)
Notary Public, State of Florida

Notarized online using audio-video communication
My commission expires: 09/28/2026

NOTARY CERTIFICATE (Hawaii Administrative Rules §5-11-8)

Document Identification or Description:
Contract between county of Maui and
JOHNSON CONTROLS, INC.

undated at time
Doc. Date: of notarization No. of Pages: 13 Jurisdiction:
Signature of Notary Date of Certificate
01/27/2023
DWIGHT BLANKENSHIP
Printed Name of Notary



Notarized online using audio-video communication

## **APPENDIX A: SCOPE OF WORK**

**Attached: Investment Grade Audit Phase 2A Energy Feasibility Study Report for Energy Services Contracting for Maui County facilities, Solicitation Document No. RFP-21-22 ESPC**

## **APPENDIX B: TERM/SCHEDULE OF WORK**

### **I. PERFORMANCE OF SERVICES**

Phase 2A IGA implementation services are anticipated to be completed by January 30<sup>th</sup>, 2027., subject to the terms and conditions of the PPA. The completion time may be extended in accordance with the PPA. IGA development services for potential additional phases is extended until January 30, 2024.

Measurement and Verification Services described in Appendix A shall begin after the energy conservation measures have been implemented and accepted by the County under the power purchase agreement and shall continue throughout the term this Agreement pursuant to the terms of the IGA Phase 2A.

### APPENDIX C: PRICING/CERTIFICATIONS

- I. County shall make payments to pursuant to this schedule.
- II. The price to be paid by County for the solar generated electricity shall be per the Solar PPA payment terms.
- III. Measurement & Verification Services. See Appendix A, ongoing Measurement & Verification ("M&V") Services anticipated to commence November 30, 2027. County may elect to cancel M&V Services in any given year subject to the terms of Appendix A. County must do so in writing within 30 days of the annual renewal date, otherwise full service will continue for the remainder of the year and the Customer will be responsible for payment of the full year.

Year	Total
1	\$75,456
2	\$73,388
3	\$75,589
4	\$77,857
5	\$80,193
6	\$82,598
7	\$85,076
8	\$87,629
9	\$90,257
10	\$92,965
11	\$95,754
12	\$98,627
13	\$101,586
14	\$104,633
15	\$107,772
16	\$111,005
17	\$114,335
18	\$117,765
19	\$121,298
20	\$124,937

## II. HAWAII PRODUCTS PREFERENCE

In accordance with HRS §103D-1002, the Hawaii products preference may be applicable to this solicitation.

Offerors offering a Hawaii Product shall specify the product and class of the product offered.

Offeror submitting a Hawaii Product (HP) shall identify the HP on the solicitation offer page(s). Any person desiring a Hawaii product preference shall have the product(s) certified and qualified if not currently on the Hawaii products list, prior to the deadline for receipt of offer(s) specified in the procurement notice and solicitation. The responsibility for certification and qualification shall rest upon the person requesting the preference.

Persons desiring to qualify their product(s) not currently on the Hawaii product list shall complete form SPO-038, Certification for Hawaii Product Preference and submit to the Procurement Officer issuing the solicitation (IFB or RFP), and provide all additional information required by the Procurement Officer. For each product, one form shall be completed and submitted (i.e., 3 products should have 3 separate forms completed). Form SPO-038 is available on the SPO webpage at <http://hawaii.gov/spo>, click on 'Forms'.

When a solicitation contains both HP and non-HP, then for the purpose of selecting the lowest bid or purchase price only, the price offered for a HP item shall be decreased by subtracting 10% for the class I or 15% for the class II HP items offered, respectively. The lowest total offer, taking the preference into consideration, shall be awarded the contract unless the offer provides for additional award criteria. The contract amount of any contract awarded, however, shall be the amount of the price offered, exclusive of the preferences.

Change in Availability of Hawaii product. In the event of any change that materially alters the offeror's ability to supply Hawaii products, the offeror shall notify the procurement officer in writing no later than five working days from when the offeror knows of the change and the parties shall enter into discussions for the purposes of revising the contract or terminating the contract for convenience.

Refer to the General Instructions for additional information regarding the Hawaii product preference.

It is further understood by the bidder that in the event of any change that materially alters the bidder's ability to supply Hawaii Products the bidder shall immediately notify the Officer-in-Charge in writing and the parties shall enter the discussions for the purpose of revising the contract or terminating the contract for convenience.

### III. CERTIFICATE OF ACCEPTANCE OF SOLICITATION REQUIREMENTS

It is understood and agreed that the undersigned acknowledges the following:

1. The Offeror has read this solicitation document including any addenda, in its entirety;
2. The Offeror understands and agrees to furnish, deliver, and perform the requirements of the solicitation in strict compliance with the solicitation document as amended, including any specifications, plans, and scope of work descriptions, without any exceptions, if awarded a contract;
3. The Offeror understands and agrees that no substitution or alternate brands may be furnished without the written approval of the COUNTY;
4. The Offeror understands that the ESCO shall resolve any noncompliance with the requirements of the awarded contract at the ESCO's own expense;
5. The Offeror will make all modifications or customizations to the brand and model being offered as necessary to meet all specifications, at no additional cost. Offeror guarantees that all modifications or customizations done to meet specifications shall not affect the quality or operation of the product; and
6. The Offeror understands that FAILURE TO MEET CONTRACT REQUIREMENTS WILL CONSTITUTE A BREACH OF CONTRACT THAT MAY RESULT IN SUSPENSION OR DEBARMENT, AND THE EXERCISE OF RIGHTS AND REMEDIES AS PROVIDED BY LAW. Contract requirements include any specifications, plans, and scope of work descriptions;

The undersigned is an authorized representative of the Offeror and can legally obligate the Offeror thereto.

Offeror: Johnson Controls

Signature: William P. Avirett

Print Name: William P. Avirett

Title: General Manager

Date: 1/27/23

Phone: 305-842-1885

IV. CERTIFICATION OF COMPLIANCE WITH HRS 396-18, SAFETY AND HEALTH PROGRAMS FOR CONTRACTOR BIDDING ON COUNTY JOBS

PROJECT NAME AND NUMBER:

RFP-21-22 ESPC

This is to certify that the undersigned will comply with the requirements of HRS 396-18, as follows:

- (A) Pursuant to HRS 396-18, all bids and proposals in excess of \$100,000 shall include a signed certification from the bidder that a written safety and health plan for the job will be available and implemented by the notice to proceed dates of the project. The written safety and health plan shall include:
- (1) A safety and health policy statement reflecting management commitment;
  - (2) A description of the safety and health responsibilities of all levels of management and supervisors on the job and a statement of accountability appropriate to each;
  - (3) The details of:
    - (a) The mechanism for employee involvement in job hazard analysis;
    - (b) Hazard identification, including periodic inspections and hazard correction and control;
    - (c) Accident and "near-miss" investigations; and
    - (d) Evaluation of employee training programs;
  - (4) A plan to encourage employees to report hazards to management as soon as possible and to require management to address these hazards promptly; and
  - (5) A certification by a senior corporate or Company manager that the plan is true and correct.
- (B) Failure to submit the required certification may be grounds for disqualification of the bid.
- (C) Failure to have available on site or failure to implement the written safety and health plan by the project's notice to proceed shall be considered willful noncompliance and be sufficient grounds to disqualify the award and terminate the contract.

Name of Offeror: William P. Avirett / Johnson Controls

*William P. Avirett*

Signature and Title:

General Manager

Date: 1/27/23

**APPENDIX D: FINANCING SUBMITTALS**

Attached: Financing Submittal, Solar PPA No. 20221130

**Solar Power Purchase Agreement No. 20221130**

This Solar Power Purchase Agreement (this “**Agreement**”) is entered into by the parties listed below (each a “**Party**” and collectively the “**Parties**”) as of the date signed by Seller below (the “**Effective Date**”).

Purchaser:	COUNTY OF MAUI, a municipal corporation existing under by virtue of the laws of the State of Hawaii	Seller:	COM SOLAR LLC, a Hawaii Limited Liability Company
Name and Address	COUNTY OF MAUI 200 South High Street Kalana O Maui Bldg 9 <sup>th</sup> Fl Wailuku, Hawaii 96793	Name and Address	COM SOLAR LLC 1003 Bishop St., STE 2700 Honolulu, Hawaii 96813
Phone	808-270-7722	Phone	
Fax	None	Fax	None
E-mail	@.gov	E-mail	
Site Ownership	<b>Schedule A to Exhibit 2</b> provides a list of Purchaser HECO account numbers and associated owned TMKs.  <b>Schedule B to Exhibit 2</b> provides a list of Purchaser Owned Tax Map Keys (“ <b>TMKs</b> ”) and the adjacent TMKs owned by private parties. Prior to the Commencement of Installation of a System on a TMK owned by a private party, a land lease is required with the third party owner of such Site.	Site Ownership	A Hawaii limited liability company. Legal owner of the System for tax purposes and business purposes.
Tax Status	Municipal Corporation		Limited Liability Company
Project Name	CoM Solar + Storage		CoM Solar + Storage
Contractor	Johnson Controls, Inc 2065 Main St. Wailuku, HI 96793	Hawaii General Contractor License CT-2023	General A, General B, C-13 Electrical, C-15 Electrical Control Systems, C-52 HVAC Contractor, C-60 Solar Power Systems Contractor

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electricity from the Systems (defined below) and installed on the real property described or depicted in **Schedule A to Exhibit 2** or in **Schedule B of Exhibit 2** (each a “**Site**” and collectively, the “**Sites**”), including any buildings and other improvements on the Sites other than the Systems (the “**Improvements**”).

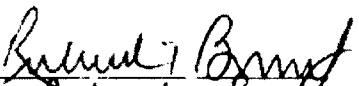
“**System**” and “**Systems**” shall mean each of the solar panel systems designed and installed pursuant to this Agreement at the Sites and more fully described in **Exhibit 2**. One or more Systems may be developed on a Site.


The exhibits listed below are incorporated by reference and made part of this Agreement.

- Exhibit 1** Pricing
- Exhibit 2** System Description, Delivery Points and Sites
- Exhibit 3** General Terms and Conditions
- Exhibit 4** HECO Customer Authorization and Acknowledgement Form

Purchaser: COUNTY OF MAUI

Seller: COM SOLAR LLC

Signature:   
 Printed Name: Richard T. Bissen, Jr.  
 Title: MAYOR  
 Date: 1-27-2023

Signature:   
 Printed Name: Aaron Kirk  
 Title: Manager  
 Date: 1/27/2023

APPROVAL RECOMMENDED:



1/27/23

LEO K. C. AIRES  
Chief of Staff

APPROVED AS TO FORM AND LEGALITY



Acting Corporation Counsel  
County of Maui  
VICTORIA J. TAKAYESU

1/27/23

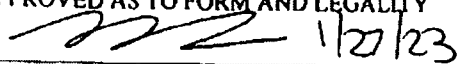
APPROVAL RECOMMENDED:

1/27/23

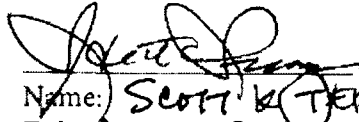


LEO K. CAIRNS  
Chief of Staff

APPROVED AS TO FORM AND LEGALITY



Acting Corporation Counsel  
County of Maui  
VICTORIA J. TAKAYESU



Name: SCOTT K. TERUYA  
Title: Acting Director of Finance  
Department of Finance  
County of Maui

2/1/23

**Exhibit 1**

**Pricing**

1. **Initial Term:** The term of this Agreement shall commence on the Commercial Operation Date of the last System to be placed in service and shall expire on the date that is twenty (20) years after that Commercial Operation Date (the “**Initial Term**”), unless and until earlier terminated pursuant to this Agreement.
2. **Additional Terms:** As permitted by law and upon prior written notice to Seller at least one-hundred eighty (180) days prior to the expiration of the Initial Term, Purchaser shall have the option to extend the Initial Term of the Agreement for up to three (3) additional five (5) year terms (each an “**Additional Term**”).
3. **Contract Price:**

Contract Year	Solar PV \$/kWh	Energy Storage \$/kW
1	\$0.198	\$22.33
2	\$0.204	\$23.00
3	\$0.210	\$23.69
4	\$0.216	\$24.40
5	\$0.222	\$25.13
6	\$0.229	\$25.88
7	\$0.236	\$26.66
8	\$0.243	\$27.46
9	\$0.250	\$28.28
10	\$0.258	\$29.13
11	\$0.266	\$30.00
12	\$0.274	\$30.90
13	\$0.282	\$31.83
14	\$0.290	\$32.78
15	\$0.299	\$33.76
16	\$0.308	\$34.77
17	\$0.317	\$35.81
18	\$0.327	\$36.88
19	\$0.337	\$37.99
20	\$0.347	\$39.13

The first Contract Year shall commence on the Commercial Operation Date of the last System to be placed in service, and each subsequent Contract Year shall commence on the anniversary of such Commercial Operation Date. Interim billing shall occur for Systems that generate power prior to the Commercial Operation Date of the last System to be placed in service. However, interim billing will not be subject to annual escalation in price. Upon the Commercial Operation Date of the last System to be placed in service, the Initial Term will commence.

4. **Contract Price Assumptions.** The Contract Price is based on the following assumptions:
  - a. A payment or performance bond is \_\_\_\_\_ is not X being issued to Purchaser under this Agreement.
  - b. Statutory prevailing wage rates (e.g., Davis-Bacon) do \_\_\_\_\_ do not X apply.
  - c. All prices in this Agreement are calculated based on an upfront rebate of \$0. \_\_\_\_\_

d. The Contract Price is inclusive of Seller's Taxes (as defined in Section 3(d) of Exhibit 3) at the rates in effect as of the Effective Date.

5. **Contract Price Exclusions.** Unless Seller and Purchaser have agreed otherwise in writing, and except as otherwise provided in Section 2(c) of Exhibit 3, the Contract Price excludes the following (unless required to meet the minimum code compliance):

Unforeseen groundwork (including excavation and circumvention of underground obstacles). Upgrades or repair to customer or utility electrical infrastructure (including: client or utility service, switchgear, transformers, substations, poles, breakers, reclosers, and disconnects).

- a. Snow removal, tree removal, tree trimming, mowing and any landscape improvements.
- b. Decorative fencing and/or any visual screening materials, decorative enhancements to solar support structures (including: painting, paint matching, masonry/stone work, and any lighting).
- c. Removal of existing lighting, light poles, or concrete light post bases.
- d. Roof membrane maintenance or reroofing work.
- e. Structural upgrades to the Improvements, including ADA upgrades.
- f. Installation of public information screen or kiosk (including accompanying internet connection, power supply, technical support and ADA access).
- g. Changes in System design caused by any inaccuracy or ambiguity in information provided by Purchaser, including information regarding Purchaser's energy use, the Site and the Improvements, including building plans and specifications.

6. Termination Payment Schedule (Exhibit 3, Section 11(b)):

Contract Year	Termination Value: \$ per wattDC per Site
1	\$6.96
2	\$6.88
3	\$6.72
4	\$6.61
5	\$6.55
6	\$6.01
7	\$5.46
8	\$5.35
9	\$4.97
10	\$4.59
11	\$4.20
12	\$3.77
13	\$3.39
14	\$2.95
15	\$2.57
16	\$2.13
17	\$1.75
18	\$1.31
19	\$0.87
20	\$0.55

**Exhibit 2**

**System Description, Delivery Point and Sites**

1. System Locations: County of Maui, comprising the islands of Lanai, Maui, Molokai.
2. Entire System Size (DC kW): up to 41,000 kW-DC.
3. Entire System Description (Expected Structure, Etc.): up to 41,000 kW-DC of rooftop, carport and ground mount solar PV with up to 15,000 kW-DC of energy storage capacity.
4. **Delivery Points and Sites:** Schedule A to this **Exhibit 2** and Schedule B to this **Exhibit 2** contains a list of HECO meters and/or TMKs that may be utilized to site solar projects. Prior to construction, one or more drawings or images will be provided depicting:
  - a. Each Site, including the Improvements on such Site (as applicable);
  - b. Proposed System(s) location on Purchaser owned TMKs or adjacent TMKs owned by a private party and leased by Seller for purposes of installing solar and/or storage to provide energy to Purchaser HECO meter(s);
  - c. Delivery points for electricity generated by the System(s) on each Site (each a “**Delivery Point**” and collectively, the “**Delivery Points**”);
  - d. Access points needed for Seller to install and service the System(s) (building access, electrical room, stairs etc.);
  - e. Construction assumptions (if any); and
  - f. Single Line & Three-Line drawings for Interconnection Applications.

### Schedule A

The Sites listed below include HECO account numbers and the associated Campus Name or Department, Address and Estimated Solar PV sizing based on historical usage. Final sizing will be per stamped engineering drawings.

Some of the Sites below may have more than one HECO Account meter onsite. The proposed System(s) location at each Site is either the building rooftop, ground mount, or a suitable location for a solar canopy. For all System types, the Delivery Point(s) for electricity generated by the System(s) shall be at the AC output of the combined solar PV inverters, prior to interconnection into any transformers or other load centers. Access points for the Seller to service the Systems will be Site specific, and in alignment with any electric utility company requirements for Systems access. The construction of the solar PV systems assumes that the Seller apply for County of Maui Permits, as required.

HECO Acct #	Campus - Name, Location or Department	Service Address	Svc City	Est Solar PV Max Size kWdc
202010280560	Waihee - Pump	WAIHEE RD DWS	WAILUKU	3,914
202010610394	Kahului WWTP	AMALA RD	KAHULUI	3,080
202011411305	Environmental Management - Pumping	H PIILANI HWY	LAHAINA	2,379
201010198723	Department of Water Supply	HALIIMAILE RD	MAKAWAO	1,898
202012265122	Environmental Management - Pumping	WELAKAHAO ST COM-WW	KIHEI	1,823
202010793349	Street Lights	CENTRAL MAUI	WAILUKU	1,576
201014406429	Kehalani Community	KEHALANI MAUKA PKWY	WAILUKU	1,386
202010920140	Kalana O Maui Building	200 S HIGH ST	WAILUKU	1,367
202010284802	Police Dept - Kahului Tank SCADA	KAHULUI TANK SCADA	WAILUKU	1,351
202010894881	Mokuahu - Pump 501, 503	MOKUHAU RD CUST	WAILUKU	1,310
201011374828	Napili Rd - Pump	NAPILI RD PUMP	LAHAINA	1,119
202010808337	Kupaa Well	KAHEKILI HWY	WAILUKU	1,023
202010840538	DWS Kaupakalua - Well	KAUPAKALUA RD WELL	HAIKU	888
202014118279	Lower Kula Boosters - E7 - 71B	OLINDA RD E7-71B	MAKAWAO	886
202011329390	DWS IAO Well	IAO WELL	WAILUKU	852
202013557261	North Waihee - 1 & 2	KAHEKILI HWY	WAILUKU	688
202013905403	Environmental Management - Pumping	S KIHEI RD SPS	KIHEI	666
201011367236	Department of Finance - Police Department	2201 PIILANI HWY	KIHEI	649
202014123600	Kualapuu Deepwell	KUALAPUU DEEP-WEL	KUALAPUU	589
201011534256	Maui Meadows - Pump 17	KILOHANA DR #17 PUMP	KIHEI	550
202010280149	Waihee Well - Pump - 514, 515	KAHEKILI HY CANE RD	WAILUKU	485
201013217744	Kehalani Community	KEHALANI MAUKA PKWY	WAILUKU	434
202011428135	Waiale - Pump - 581, 582	WAIKALE DR	WAILUKU	424
202011882976	Honukahu Well	HONOKAHU WELL B CL-09	LAHAINA	409
202014359501	North Waihee Boosters - 1, 2, 3, 4	KAHEKILI HWY	WAILUKU	388
202010357558	Waikapu - Well	WAIKAPU WELL	WAILUKU	356
202010337121	Kanoa - Well 2	KAHEKILI HWY KANOA	WAILUKU	340
202013938149	Water Treatment Plant - Lahainaluna	LAHAINALUNA RD	LAHAINA	302
202010336610	Kanoa - Well 1	KAHEKILI HWY KANOA	WAILUKU	297
201012918466	Kuikahi - Pump 31	KUIKAHI DR PMP 31	WAILUKU	275
202010316950	Eluene Pl - Pumping Station	ELUENE PL	WAILUKU	274
202014107009	Haiku Well	KOKOMO RD E58	HAIKU	262
202011047075	Dept of Parks and Rec	KAHUMANU AV MEM GYM AVE	WAILUKU	257
202014328845	Olinda Water Treatment Plant	3000 OLINDA RD	MAKAWAO	254

201013821933	Department of Water Supply	KULA KAI 541, 542 #2	KULA	245
202010792598	Kula Ag - Pump Station	OMAOPIO RD DITCH	KULA	238
202011207273	Street Lights	OLOWALU	LAHAINA	230
201010700767	Department of Water Supply - REF NAPILI B, 570	NAPILI RD B	LAHAINA	230
202013685112	Lahaina Aquatic Center	SHAW ST	LAHAINA	221
201013648377	Department of Water Supply	HARRY FIELDS 543, 544	KULA	219
202010986158	Kepaniwai Well and Pump	IAO RD	WAILUKU	209
202010927723	Kula Ag - Pump Station	PULEHU RD 2	KULA	207
202010633701	Environmental Management - Pumping	HALAWAI DR	LAHAINA	206
202010358739	Diamond Resort Boosters	DIAMOND RESORT BOOSTERS	KIHEI	205
201013648914	Department of Water Supply	497 OLD HALEAKALA HWY	KULA	198
202010673145	Maui Lani Prkwy - Well 7	MAUI LANI PARKWAY WELL-7	WAILUKU	187
202013349750	Street Lights	STREET LIGHTING	KAUNAKAKAI	186
202011349562	Maui Mall	MAUI MALL A13	KAHULUI	181
202010314849	Malu Ulu Otele - Pump - 533, 534	OLINDA RD	MAKAWAO	180
202013978665	Kula Water Treatment Plant	KAHAKAPAO RD	MAKAWAO	178
202010316000	Pookela Well - Pump - 531, 532	OLINDA RD	MAKAWAO	178
201013783984	Department of Water Supply	3445 HOOKIPA PL	KIHEI	173
202010472845	Olinda - Pump 535, 536	OLINDA RD	MAKAWAO	160
202011114040	Lahaina - Sewer Pump Station 2	2010 H PIILANI HWY 2	LAHAINA	158
202011783208	Sewer Pump Station - 10 - Grand Wailea	3850 WAILEA ALANUI DR GWSPS10	KIHEI	150
202011110857	Lahaina Civic Center	1762 H PIILANI HWY	LAHAINA	146
202010430876	Kahului Bascyard	PALAPALA DR	KAHULUI	141
202013566155	Old Court House Building	150 S HIGH ST	WAILUKU	141
202010672709	Maui Lani Prkwy - Well 6	MAUI LANI PARKWAY WELL-6	WAILUKU	140
202011247196	Napili-HNKW Sewer - NA-01	LOWER HONOAPIILANI RD NA01	LAHAINA	140
202013304615	Environmental Management	WASTE WATER TRTMNT PLNT CL-09	KAUNAKAKAI	134
202013956133	Lahaina - Sewer Pump Station 3	H PIILANI HWY E23	LAHAINA	133
202013943453	Pool	LIPPOA ST POOL	KIHEI	131
202013877297	Mitchell Pauole Center	MITCHELL PAUOLE CENTER	KAUNAKAKAI	129
202010609388	Fire Station	ALANUI KA IMI IKE ST	KAUNAKAKAI	120
202011414325	Waipuna Well - Pump - 559, 560	LAHAINALUNA RD	LAHAINA	114
202011271725	Forensic Facility - The Milllyard	1831 WILI PA LOOP	WAILUKU	113
202013021789	Waichu Golf Course	WAIEHU BEACH RD	WAILUKU	111
202011293695	Country Club - Pump 566, 567	HANA HWY ELEC	PAIA	106
202010364059	Pookela Well - E12	OLINDA RD E12	MAKAWAO	105
201013563857	Dept of Parks and Rec - Office	S KAM AV (OFF)	KAHULUI	102
202014198909	Pukalani Park Pool	PUKALANI ST POOL	PUKALANI	99
202013905288	Department of Finance - Claims Div Office	KANALOA AVE CENTRAL	KAHULUI	97
202011154178	Lanai Police Station	855 FRASER AVE	LANAI CITY	92
202010682369	Fire Station	300 KILOHANA DR	KIHEI	92
202011414366	Kanaha - Well 1	4300 LAHAINALUNA RD	LAHAINA	89
202011060128	Napili-HNKW Sewer - NA-02	H PIILANI HWY NA-02	LAHAINA	89

202010634527	Pulehu - Flare	PULEHU RD FLARE	PUUNENE	84
202010681668	Kahalui - Sewer Pump Station	58 HANA HWY	KAHULUI	81
202013943461	Kokua Pool	UHU ST POOL	KAHULUI	81
202014358008	Pool	LIPOA ST POOL	KIHEI	80
202011119353	Hamoia - Pump 597	HANA HAMOIA PMP HWY E66A	HANA	78
202014331336	Department of Finance - Claims Div Office	KANALOA AVE	KAHULUI	76
202011453315	Sewer Pump Station - 8	2995 S KIHEI RD SP8	KIHEI	74
202011089333	Police Station	1762 H PIILANI HWY	LAHAINA	74
202011232172	Maui Memorial Center	KANALOA BSBALL AVE	WAILUKU	73
202011399310	Sewer Pump Station - 7	2385 S KIHEI RD SPS7	KIHEI	72
202010034371	NASKA B Y	KEOLANI PL	KAHULUI	71
202014953170	Ualapue Well	UALAPUE WELL	KAUNAKAKAI	69
202010432872	Wailuku Gym & Pool	2026 PAKAHI ST	WAILUKU	68
202013551223	Waiehu Golf Course	WAIEHU GOLF COURSE	WAILUKU	67
202011145804	Street Lights	AKAHI ST	LANAI CITY	66
202011523521	Sewer Pump Station - 4	S KIHEI RD SPS4	KIHEI	64
202010866475	Hana Community Complex	UAKA RD	HANA	64
202011045608	Dept of Public Works - Office	41 KAAHUMANU AVE	WAILUKU	63
202010673632	Maui Lani Prkwy - Well 5	MAUI LANI PARKWAY WELL-5	WAILUKU	63
201012688903	Kekaa - Pump	KEKAA DR PUMP	LAHAINA	62
201015216470	Department of Water Supply	0000 W ALU RD	WAILUKU	60
202011089655	Police Station	1762 H PIILANI HWY A	LAHAINA	59
202013656428	Kawela Pump	KAWELA PUMP CL-09	KAUNAKAKAI	56
202011838325	Napili-HNKW Sewer - NA-04	H PIILANI HWY NA-04	LAHAINA	53
202010762724	Department of Public Works	628 WHARF ST	LAHAINA	52
202014036281	Little League Park	REGIONAL PARK CL-09	KAUNAKAKAI	52
202013879871	Pool	SWIM POOL POLEI-1	KAUNAKAKAI	50
202010278978	Real Property Tax Division	70 E KAAHUMANU AVE A18	KAHULUI	50
202011231687	Maui Memorial Center	KANALOA AV FTBALL ST AVE	WAILUKU	49
202011381615	Fire Department	313 MANEA PL WHSE	WAILUKU	48
202011881457	Napili Water Treatment Plant	NAPILI RD	LAHAINA	47
202010082115	Kehalani Mid-Level Boosters	KEHALANI MIDLEVEL BOOSTERS	WAILUKU	47
202012265460	Sewer Pump Station - 5	S KIHEI RD SPS-5	KIHEI	47
202011111269	Fire Station	1762 H PIILANI HWY	LAHAINA	46
202011088699	Police Dept - Ulupalakua Radio Site	PUU MAHOE HILL	KULA	46
201012198606	Department of Water Supply	KAHAKAPAO RD WTP	MAKAWAO	45
201013914043	Department of Parks and Rec	1501 LILOA DR PARK	KIHEI	45
202012032910	Irrigation Pumps - Kalama	KIHEI RD E-144	KIHEI	45
202010662163	Environmental Management - Pumping	PUNA RD	PAIA	44
202014328498	Claims Division	KANALOA AVE	WAILUKU	42
202011306554	Sewer Pump Station - 3	S KIHEI RD SPS3	KIHEI	41
202011392851	Dept of Parks and Rec - Pool	145 KAULAWAHINE ST	KAHULUI	40
202010532150	Sewer Maintenance Building	58 HANA HWY	KAHULUI	39
202011410117	Napili-HNKW Sewer - NA-03	H PIILANI HWY NA-03	LAHAINA	39

202011339100	Dept of Public Works?	86 KAMEHAMEHA AVE	KAHULUI	37
202010433292	Kahului Fire Station	200 DAIRY RD	KAHULUI	36
202010160226	Waiehu Golf Course	HALEWAIU RD	WAILUKU	36
202011395748	Wailuku Fire Station	1972 KINIPOPO ST	WAILUKU	35
202011414424	Kahaha Well 2 - Pump 576	3500 LAHAINALUNA RD	LAHAINA	34
202011158294	Environmental Management - Landfill	PULEHU RD	PUUNENE	34
201013118710	Department of Water Supply	HANA HWY	HANA	33
202012094290	Napili Fire Station	HANAWAI ST	LAHAINA	32
202011099522	Park	MILL ST BASEBALL	LAHAINA	30
201011521642	Street Lights	MAUI LANI PARKWAY ST-LITE	WAILUKU	30
202010480707	Paukukalo Pump Station	608 KALAKAUA ST	WAILUKU	30
202010150730	KCC - Irrigation Well	ONEHEE ST	KAHULUI	30
201010531444	Lahaina Gateway Center	335 KEAWE ST B108	LAHAINA	29
202013055076	Pukalani Community Center	PUKALANI ST	PUKALANI	29
202010152744	Malu Ulu Olele Pump Station 5	FRONT ST	LAHAINA	29
202012039774	Fire Station	S KIHEI RD FIRE	KIHEI	28
202010258699	Kaa Pump Station	ALAHAO ST	KAHULUI	28
202010566703	Omaopio Tank & Booster - Pump - 580	OLD HALEAKALA HWY	PUKALANI	28
202011111541	Fire Station	HANA HWY	PAIA	27
202010402537	Papohaku Park	LOWER MAIN ST	WAILUKU	26
202011165364	Park	LILOA DR SOFTBALL	KIHEI	26
202011045152	Maui War Memorial Stadium	KAHUMANU AVE	WAILUKU	25
202013492972	Fire Station	KULA HWY	KULA	25
202010068924	Central Wailukui Heights - Pump #3	LII WAY PMP#3	WAILUKU	25
202011236298	Makawao Fire Station	MAKAWAO AVE	PUKALANI	25
202011111749	Lahaina Civic Center	1762 H PIILANI HWY	LAHAINA	23
202012389237	Dept of Finance?	131 S KIHEI RD	KIHEI	23
202011339290	Dept of Public Works?	86 KAMEHAMEHA AVE	KAHULUI	23
202010662940	Hana Civic Center	HANA HWY	HANA	22
202013339595	Park	KALAMA PKWY RINK	KIHEI	21
201011548975	Dept of Parks and Rec	211 KANALOA AVE	WAILUKU	21
202012386498	Environmental Management - Pumping	S KIHEI RD KIHEI-2	KIHEI	21
202013706314	Police Dept - Puu O Hoku Radio Station	PUU O HOKU CL-09	KAUNAKAKAI	21
202010428227	Dept of Finance - Office	1840 H PIILANI HWY	LAHAINA	20
202013781945	Fire Station	HOOLEHUA FIRE STATION CL-09	HOOLEHUA	20
202013812286	Hana Fire Station	HANA HWY	HANA	20
202010402818	Wailuku Community Center	395 WAENA ST WKU	WAILUKU	19
202010431064	Lanai Gym	LANAI AVE	LANAI CITY	19
202010343210	Keanae Well and Pump	WAILUA RD	HAIKU	18
202013875325	Molokai Community Center	MOLOKAI COMMUNITY CENTER CL-09	KAUNAKAKAI	18
202012039618	Lahaina Sewer Treatment Plant	H PIILANI HWY KAPALUA	LAHAINA	18
202010021105	Lanai Senior Center	309 SEVENTH ST	LANAI CITY	18
202014132494	Police Station	HANA AIRPORT SITE	HANA	18
202010842492	Environmental Management - Sewer	AKAKUU ST SEWER	WAILUKU	17

202011300847	Ainakea Park	ALAMOANA ST 4	LAHAINA	17
202013874856	Department of Water Supply	MAHINAHINA RD W	LAHAINA	17
202011298462	Skill Village - Pump - 595, 596	BALDWIN AVE	PAIA	17
202011095405	Wailuki Country Estates - Booster 3	WKU CTRY EST #3 BOOSTER	WAILUKU	16
202014133518	Police Station	KEANAE	HANA	16
202013714466	Kamiloloa Booster	KAIINANI PL PUMP	KAUNAKAKAI	16
202010438010	Spreck Pump Station	LAULEA PL	PAIA	16
202010984203	Kaunoa Senior Center	HANA HWY	PAIA	16
202010738021	Wakea - Sewer Pump Station	WAKEA AVE	KAHULUI	16
202010063370	Wailuku Tennis Center	WELLS ST TENNIS CRT ST	WAILUKU	16
202010872440	Kalae - Well 1	KAPALUA PL WELL-1	LAHAINA	16
202010561100	Haleakala Acres - Pumps 547, 548	OLD HALEAKALA HWY	KULA	16
202010129445	Kahalui Community Center	UHU ST ST	KAHULUI	15
201013090836	Street Lights	MAUI LANI/KAM AVE S/L S/L	KAHULUI	15
202013304904	Environmental Management	SEWER TREATMENT STATION CL-09	KAUNAKAKAI	15
202010432419	Wailuku Gym & Pool	2026 PAKAHI ST	WAILUKU	15
202011030071	Environmental Management - Pumping	1827 KAOHU ST	WAILUKU	15
202010403170	Papohaku - Well Pump	LOWER MAIN ST PUMP-PAR	WAILUKU	15
202013682143	Department of Public Works	MLOA HWY	KAUNAKAKAI	15
201014619849	Hale Mahaolu Ewalu Senior Housing	65 OHIA KU ST COMM CTR	PUKALANI	15
202010068205	Wells Park & Tennis Court	1967 WELLS ST	WAILUKU	15
202010151050	Kahului Community Center Park	ONEHEE AVE	KAHULUI	14
202010130005	Kahalui Community Center	275 UHU ST	KAHULUI	14
202010435180	Kula Community Center	KULA HWY E2-103	KULA	13
202010212027	Leisure Estate - Sewer Pump Station	AKAKE ST	WAILUKU	13
202011746015	Environmental Management	WAILEA RD COM-WWP2	KIHEI	13
202010734038	"Flako" Gym and Paia Park	BALDWIN AVE E57	PAIA	13
202011481183	Lanai WWTP	LANAI CITY	LANAI CITY	12
202010311811	Lahaina Recreation Center	SHAW ST	LAHAINA	12
202011087683	Waiehu Golf Course - Clubhouse	2220 KAHEKILI HWY	WAILUKU	12
202011115096	Environmental Management	2020 H PIILANI HWY KA-02	LAHAINA	12
202013272572	Environmental Management - Landfill	KAMEHAMEHA V HWY	HOOLEHUA	12
202011035286	Lahaina Park	245 SHAW ST	LAHAINA	12
202013554854	Eddie Tam Memorial Center	HALE KIPA RD RESTRM	MAKAWAO	12
202011657931	Sewer Pump Station - 16	4850 MAKENA ALANUI RD SP16	KIHEI	12
202013185717	Koali Boosters	HANA HWY KOALI	HANA	12
202011746338	Park	WAILEA RD WLK WY	KIHEI	12
202011041961	Dept of Parks and Rec	544 IAO RD	WAILUKU	12
202013157880	Park	S KIHEI RD COMFORT	KIHEI	11
202010794222	Police Station	31 KEANINI DR POLICE	HANA	11
202011348218	Kahului Community Center Park	ONEHEE AVE TENNIS	KAHULUI	11
202011307339	Street Lights	PRISON E9 ST	LAHAINA	11
202013786670	Department of Public Works	MLOA HWY	KAUNAKAKAI	11
202011555192	Environmental Management	NOHEA KAI ST KA-01	LAHAINA	11

202010527739	Makawao Park	MAKAWAO AVE 3	MAKAWAO	11
202011205038	Haiku Community Center	1008 HANA HWY	HAIKU	11
202010100925	Park	LOWER KULA RD	KULA	11
202010242875	Park	MAIHA ST PARK	LAHAINA	11
202013946332	Lahaina Baseball Complex	H PIILANI HWY BASEBALL	LAHAINA	10
202010682898	Department of Finance - Office	788 PAUOA ST	LAHAINA	10
202013275757	Kalae - Booster	KALAE BOOSTER	KUALAPUU	10
201014675460	Department of Finance - Office	2154 KAOHU ST A	WAILUKU	10
202012060762	Napili-HNKW Sewer - NA-05	H PIILANI HWY NA-05	LAHAINA	10
202014298295	Fire Station	PUKOO FIRE STATION CL-09	KAUNAKAKAI	10
201012194795	Environmental Management - Landfill	PULEHU RD	PUUNENE	10
202010839050	Wailuku Mini Park	70 N MARKET ST	WAILUKU	10
202011165661	Park	LILOA DR SOCCER	KIHEI	9
202010894394	Hana Garage	1510 UAKEA ST	HANA	9
201014259315	Dept of Parks and Rec	4655 KAMEHAMEHA AVE SWBD #3	KAHULUI	9
201012569772	Kahakuloa Radio Site	KAHAKULOA RADIO SITE	WAILUKU	9
201013118728	Department of Water Supply	HANA HWY	HANA	9
202013403698	Waiehu Terrace Park	ALIHILANI ST	WAILUKU	9
202011112879	Pukalani Community Center	252 HANA HWY	PAIA	9
202011017383	Street Lights	125 L LUNA RD	LAHAINA	9
202011393313	Kahului Pool	145 KAULAWAHINE ST	KAHULUI	9
202014141826	Molokai Bascyard	MAKAENA PL	KAUNAKAKAI	8
201013213545	Department of Finance	2050 MAIN ST 2B	WAILUKU	8
202010245464	Office economic dev - Maui Mall	MAUI MALL B9	KAHULUI	8
202010628438	Street Lights	HANA HWY	HANA	8
202011233808	Makawao Memorial Park	MAKAWAO AVE	PUKALANI	8
202013561370	Police Station	POLICE COTT A	KAUNAKAKAI	8
202011232628	Maui Memorial Center	KANALOA AV ZOO AVE	WAILUKU	8
201011689316	Street Lights	KAH IND PARK PII. 1B (18) S/L	KAHULUI	8
201013563816	Dept of Parks and Rec	4655 KAMEHAMEHA AVE SW BRDI	KAHULUI	8
202010111823	Haiku Community Center	1008 HANA HWY	HAIKU	8
202010988113	Hana - Pump 3	HANA HWY PMP-3	PAIA	7
202014063012	Kualapuu Community Center	LAMAIIKI PL	KUALAPUU	7
202014168522	Eddie Tam Memorial Center	1075 MAKAWAO AVE	MAKAWAO	7
202013873775	Lahaina - Public Works Bascyard	3310 LOWER HONOAPIILANI RD	LAHAINA	7
202010657023	DHHL - Kula - Pump Station 2	KULA HWY PUMP	KULA	7
201013563824	Dept of Parks and Rec	4655 KAMEHAMEHA AVE SW BRD2	KAHULUI	7
202010037911	Lahaina - Sewer Pump Station 6	360 FRONT ST	LAHAINA	7
202010127563	Armory Park	519 FRONT ST	LAHAINA	7
202010739409	Hana Ball Park	HANA HWY	HANA	6
202010988501	Hana - Sewer Pump Station - 4	HANA HWY PMP-4	PAIA	6
202010987685	Hana - Pump 2	HANA HWY PMP-2	PAIA	6
202012033462	Kalama Park	S KIHEI RD TENNIS	KIHEI	6
202010249755	Street Lights	HANA HWY LITES	PAIA	6

202011360171	Fire Station	FRASER AVE	LANAI CITY	6
202010255588	Street Lights	FRONT E9 ST	LAHAINA	6
202010063792	Wailuku Tennis Center	WELLS ST	WAILUKU	6
201011521618	Street Lights	LAA ST,MAA ST,PAA ST STLITE	WAILUKU	6
201013521301	Kahului Park	5795 HINA AVE	KAHULUI	6
202011055235	Street Lights	LAH BUSINESS PKWY ST- LITES	LAHAINA	6
202014064879	One Aii Park	ONE ALII PARK	KAUNAKAKAI	5
202010437574	Pakele Street - Pump Station	PAKELE ST PUMP STN PL	WAILUKU	5
202010925727	Police Station	1625 UAKEA ST	HANA	5
202010987396	Environmental Management	HANA HWY KUAU	PAIA	5
202011011220	Paia Basketball Court	HANA HWY	PAIA	5
202010282103	Department of Public Works	251 NAPUA ST	WAILUKU	5
201012524140	Department of Public Works	LILoa DR	KIHEI	5
201012223677	Wells Street Professional Center	2145 WELLS ST 103	WAILUKU	5
201010581134	Department of Water Supply	00-00 LAHAINALUNA RD	LAHAINA	5
202011304633	Baseyard - Garage St	KAOHU ST	WAILUKU	5
202013562071	Police Station	POLICE COTTAGE B	KAUNAKAKAI	5
202014291639	Kanaha Beach	KANAHA BCH PKWY LIFE- GUA	KAHULUI	5
202011334515	Makawao Veterans Cemetery	76 BALDWIN AVE CEMETERY	MAKAWAO	5
202011731355	Dept of Parks and Rec	2594 S KIHEI RD	KIHEI	5
202012037612	Park Lighting	KALAMA PKWY LITES	KIHEI	5
202013936820	Dept of Parks and Rec	WAIPONO LN RESTROOM	WAILUKU	5
202013469772	Kuhao Business Center	KAUNAKAKAI-KUHAO BUS CTR CL-09	KAUNAKAKAI	5
202011801000	Park	KENOLIO RD COMFORT	KIHEI	4
201014978716	Moore Center	2 KAMOI PL UNIT-3	KAUNAKAKAI	4
202014035028	Parking Lot	KAI AU PL PRK-LITE	KIHEI	4
201014249688	Dept of Parks and Rec	WHARF ST 23	LAHAINA	4
201014619856	Hale Mahaolu Ewalu Senior Housing	53 OHIA KU ST A102	PUKALANI	4
202010327353	Police Station	29 KEANINI DR POLICE-C	HANA	4
202013240736	Kilohana Community Center	KILOHANA COMMUNIT	KAUNAKAKAI	4
202010010363	Dept of Parks and Rec	KUUPAOA & OHIA KU ST	KULA	4
202011490010	Makena - Parking	MAKENA RD PKLITE	KIHEI	4
202010701573	Haliimaile Park and Tennis	75 MAKOMAKO ST	MAKAWAO	4
202011087568	Hanakao Beach Park	H PIILANI HWY	LAHAINA	4
202011170851	Off Street Parking - Lights	200 VINEYARD ST	WAILUKU	4
202010341545	Street Lights	870 FRONT ST	LAHAINA	4
202011882687	Honukahu Well	NAPILI RD A	LAHAINA	4
201014620953	Hale Mahaolu Ewalu Senior Housing	63 OHIA KU ST E104	PUKALANI	4
202012389864	Kihei School	KIHEI SCHOOL E-10	KIHEI	4
202010097709	Dept of Finance	2145 WELLS ST 104	WAILUKU	4
202010271718	Street Lights	LAH BUSINESS PARK PH2 ST-LITE	LAHAINA	4
202011303585	Baseyard - Garage St	KAOHU ST	WAILUKU	4
202011313642	Kaunoa Senior Center	401 ALAKAPA PL	PAIA	4

201012222992	Environmental Management	PUALEI DR	LAHAINA	4
201012064857	Kamaole Beach Park I	S KIHEI RD PARK	KIHEI	4
202011140896	Waikapu	WAIKO RD PARK RD	WAILUKU	4
201014686327	Street Lights	WAIKALE RD S/L	WAILUKU	4
202010811513	Park	LILOA DR OFF	KIHEI	4
202011305226	Baseyard - Garage St	KAOHU ST CM GARAGE ST	WAILUKU	4
202010406454	Lanai Gym	411 EIGHTH ST	LANAI CITY	3
202010496174	Hamakuapoko Well 2 & Boosters	HAMAKUAPOKO WELL-2	HAIKU	3
201014621324	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F205	PUKALANI	3
202011205491	Haiku Community Center	HANA BALL PARK HWY	HAIKU	3
202011278340	Street Lights	PAPELEKANE ST	LAHAINA	3
201014621134	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F103	PUKALANI	3
202011147016	Police Station	518 AKAHI ST	LANAI CITY	3
202010373738	Makawao Baseyard	1285 MAKAWAO AVE	MAKAWAO	3
201012918458	Pump	WAIKALE DR PUMP	WAILUKU	3
202011170232	Street Lights	493 S KAMEHAMEHA AVE	KAHULUI	3
202012038008	Honolua	H PIILANI HWY	LAHAINA	3
202010731836	Street Lights	670 MOLOKAI AKAU ST	KAHULUI	3
202011731892	Kamaole Beach Park III	S KIHEI RD KAMA3	KIHEI	3
202010709329	Ukumehame Firing Range	H PIILANI HWY FIRING	LAHAINA	3
202013339421	Dept of Parks and Rec	HOOKIPA PARK RESTRM	PAIA	3
202012417533	Waipoina	S KIHEI RD	KIHEI	3
201014620979	Hale Mahaolu Ewalu Senior Housing	63 OHIA KU ST E202	PUKALANI	3
201014620961	Hale Mahaolu Ewalu Senior Housing	63 OHIA KU ST E102	PUKALANI	3
202013718103	Little League Park	LITTLE LEAGUE PARK CL-09	KAUNAKAKAI	3
201014620078	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B105	PUKALANI	3
201014620284	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B205	PUKALANI	3
202010630335	Dept of Parks and Rec	280 SHAW ST	LAHAINA	3
201014620904	Hale Mahaolu Ewalu Senior Housing	59 OHIA KU ST D203	PUKALANI	3
202011094531	Claims Division	UAKEA RD	HANA	3
201014619864	Hale Mahaolu Ewalu Senior Housing	53 OHIA KU ST A103	PUKALANI	3
202013935947	Department of Parks and Rec	APAU PL	MAKAWAO	3
201014620896	Hale Mahaolu Ewalu Senior Housing	59 OHIA KU ST D202	PUKALANI	3
202010348979	Street Lights	229 S LEHUA ST	KAHULUI	3
202013059953	Carpenter Shop	1827 KAOHU ST	WAILUKU	3
202011095694	Wailuku Country Estates - Booster 2	WKU CTRY EST #2 BOOSTERS	WAILUKU	3
202011428044	Makawao Basketball Court	MAKAWAO AVE BB-CRT	PUKALANI	3
202010230540	Park	1827 KAOHU ST	WAILUKU	2
202010151308	Malu Ulu Olele Park	558 FRONT ST	LAHAINA	2
201014620599	Hale Mahaolu Ewalu Senior Housing	57 OHIA KU ST C103	PUKALANI	2
201014620243	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B203	PUKALANI	2
202011481290	Baseyard - Lanai	LANAI CITY	LANAI CITY	2
201014620862	Hale Mahaolu Ewalu Senior Housing	57 OHIA KU ST C204	PUKALANI	2
201015107885	Dept of Parks and Rec	3535 KEHALANI PARKWAY	WAILUKU	2
202010432013	Waiakoa Gym	3590 KULA HWY GYM	KULA	2

202011308535	Street Lights	366 NIIHAU ST	KAHULUI	2
201014621209	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F105	PUKALANI	2
202010739730	Hana Tennis Court - Lighting	HAUOLI ST	HANA	2
201014621720	Hale Mahaolu Ewalu Senior Housing	53 OHIA KU ST A204	PUKALANI	2
201014620300	Hale Mahaolu Ewalu Senior Housing	57 OHIA KU ST C101	PUKALANI	2
201014620524	Hale Mahaolu Ewalu Senior Housing	53 OHIA KU ST A202	PUKALANI	2
202010827618	Hana Bay Beach Park	1632 KEAWA PL	HANA	2
202010836593	Dept of Parks and Rec	KALAMA PKWY SKATE	KIHEI	2
201014619880	Hale Mahaolu Ewalu Senior Housing	53 OHIA KU ST A201	PUKALANI	2
202014125472	Park	H PIILANI HWY COMFORT	LAHAINA	2
202013903960	Kaunakaka Park	KAUNAKAKAI BALL-PAR	KAUNAKAKAI	2
201014620011	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B102	PUKALANI	2
201014620839	Hale Mahaolu Ewalu Senior Housing	57 OHIA KU ST C202	PUKALANI	2
202010662502	Baldwin Park	HANA IIWY	PAIA	2
201014620565	Hale Mahaolu Ewalu Senior Housing	59 OHIA KU ST D103	PUKALANI	2
201011520578	Dept of Public Works	WAIALE RD & KUIKAHI DR	WAILUKU	2
202010984831	Senior Citizen MP	HANA HWY	PAIA	2
201014620847	Hale Mahaolu Ewalu Senior Housing	57 OHIA KU ST C203	PUKALANI	2
202010259093	Traffic Signal - Lono Ave	LONO AVE	KAHULUI	2
201014620516	Hale Mahaolu Ewalu Senior Housing	57 OHIA KU ST C102	PUKALANI	2
202010925156	Wailuku Elementary School	355 S HIGH ST	WAILUKU	2
201014620276	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B204	PUKALANI	2
201014620532	Hale Mahaolu Ewalu Senior Housing	53 OHIA KU ST A203	PUKALANI	2
201014621167	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F202	PUKALANI	2
201014620987	Hale Mahaolu Ewalu Senior Housing	63 OHIA KU ST E203	PUKALANI	2
202011011477	Pukalani Community Center	PUKALANI ST	PUKALANI	2
201013127828	Department of Water Supply	0000 S ALU RD	WAILUKU	2
201014741239	Department of Public Works	HOOKELE ST/PAKAULA ST TRF SIG	KAHULUI	2
202010720888	Moore Center	2 KAMOI PL UNIT-4	KAUNAKAKAI	2
201014620946	Hale Mahaolu Ewalu Senior Housing	63 OHIA KU ST E103	PUKALANI	2
202010480483	Department of Public Works	KAMEHAMEHA AVE/HINA AVE	KAHULUI	2
201014301810	Department of Parks and Rec	MAUI LANI PKWY	KAHULUI	2
201016011797	County Auditor - Office	2145 WELLS ST 303	WAILUKU	2
201014621183	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F203	PUKALANI	2
202013557246	Dept of Finance	NINTH ST	LANAI CITY	2
202013728573	Lanai Community Complex	FRASER AVE TENNIS	LANAI CITY	2
202012626596	Kamaole Beach Park II	S KIHEI RD KAMA2	KIHEI	2
202013051398	Traffic Signal - S Kihei Rd & Alamaha	WAKEA & ALAMAHA	KAHULUI	2
202013554771	Eddie Tam Memorial Center	HALE KIPA RD E6-49	MAKAWAO	2
201014621126	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F102	PUKALANI	2
201014620607	Hale Mahaolu Ewalu Senior Housing	57 OHIA KU ST C104	PUKALANI	2
201014620037	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B103	PUKALANI	2
202010098087	Dept of Parks and Rec	KUULA ST	KAHULUI	2
201014620557	Hale Mahaolu Ewalu Senior Housing	59 OHIA KU ST D102	PUKALANI	2
201014741247	Dept of Public Works	HOOKELE ST TRF SIG	KAHULUI	2

202011307602	Street Lights	PRISON ST	LAHAINA	2
201014621142	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F104	PUKALANI	2
202010011098	Dept of Finance	KUUPAOA & OHIA KU ST	KULA	2
202014193561	Traffic Signal	WAKEA/ONEHEE RD INTERSEC	KAHULUI	2
201014620094	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B106	PUKALANI	2
202010049775	Traffic Signal	HOOHANA ST/KAMEHAMEHA AVE TRAF	KAHULUI	2
202010879478	Traffic Signal - Liloa & Lipoa St	LILoa DR/LIPOA ST TRAF	KIHEI	2
202010898106	Traffic Signal - Onehee & Papa Ave	ONEHEE & PAPA AVE	KAHULUI	2
201014619872	Hale Mahaolu Ewalu Senior Housing	53 OHIA KU ST A104	PUKALANI	2
202010399667	Traffic Signal - Lower Main & Hookahi St	L MAIN/HOOKAHI ST	WAILUKU	2
201014620821	Hale Mahaolu Ewalu Senior Housing	57 OHIA KU ST C201	PUKALANI	2
201011791575	Dept of Public Works	KAM AV & KANE ST	KAHULUI	2
201014621191	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F204	PUKALANI	2
202010659722	Traffic Signal - Piikea Ave	PIIKEA AVE	KIHEI	2
201014619823	Hale Mahaolu Ewalu Senior Housing	53 OHIA KU ST A101	PUKALANI	2
202014060075	Traffic Signal	LOWER MAIN ST TRF-SIG	WAILUKU	2
202010999235	Hamakuapoko Well I & Boosters	HOLOMUA RD HPOKO	HAIKU	2
202010202275	Traffic Signal	WAKEA/HOOHANA ST TRF- SIG	KAHULUI	1
202011171164	Parking Lot	LUAKINI ST PRK-LT	LAHAINA	1
201014790921	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST HM	PUKALANI	1
201014619898	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B101	PUKALANI	1
201014620581	Hale Mahaolu Ewalu Senior Housing	59 OHIA KU ST D104	PUKALANI	1
202010745612	Traffic Signal - S Kihei Rd & Welakahao Rd	S KIHEI/WELAKAHAO RD TRAF-SIG	KIHEI	1
202010876086	Dept of Public Works	3855 WAILEA ALANUI DR	KIHEI	1
201014620045	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B104	PUKALANI	1
202013945763	Traffic Signal	LONO & HIINA AVE	KAHULUI	1
202013592664	Kualapuu Park	KUALAPUU PARK CL-09	KUALAPUU	1
202010791863	Traffic Signal - Lono & Wakea Ave	LONO/WAKEA AVE	KAHULUI	1
202014136016	Traffic Signal	ALAMAHA ST/KAM AVE TRAFF	KAHULUI	1
201014620995	Hale Mahaolu Ewalu Senior Housing	63 OHIA KU ST E204	PUKALANI	1
202011751700	Traffic Signal	S KIHEI RD E125	KIHEI	1
202011200534	Lahaina Recreation Center	MILL ST	LAHAINA	1
202011832203	Traffic Signal - S Kihei Rd &	S KIHEI RD	KIHEI	1
202010873505	Traffic Signal	S KIHEI RD/KE ALII ALANUI RD	KIHEI	1
201014620938	Hale Mahaolu Ewalu Senior Housing	63 OHIA KU ST E201	PUKALANI	1
202013901006	Tennis Court	TENNIS COURT LITES CL-09	KAUNAKAKAI	1
202014310546	Mahinahina Baseyard	MAHINAHINA	LAHAINA	1
202011275437	Traffic Signal - Lahina Shopping Center	PAPALAU/WAINEE ST	LAHAINA	1
202013219847	Piilani Firing Range	H PIILANI HWY FIRING	LAHAINA	1
202011212059	Dept of Finance	140 MAUNALOA RD	MAUNALOA	1
201014620912	Hale Mahaolu Ewalu Senior Housing	59 OHIA KU ST D204	PUKALANI	1
202010998526	Traffic Signal	WAKEA/KEA ST TRF-SIG	KAHULUI	1
201011062365	Traffic Signal	WAKEA/HINA AVE TRF SIG	KAHULUI	1

202010018176	Hookipa Park	HOOKIPA PARK LIFE GUAR	PAIA	1
202010217281	Keokea Park	218 KULA HWY	KULA	1
201014621159	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F201	PUKALANI	1
202010506584	Traffic Signal	MAKAWAO & HALEAKALA SIGNL	PUKALANI	1
202010240226	Pump - DHHL Kula Kai - Booster	MANO DR DHHL-PMP	KULA	1
202011368968	Street Lights	180 DICKENSON ST	LAHAINA	1
201014620292	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B206	PUKALANI	1
202011206200	Kahakuloa School	3508 KAHEKILI HWY	WAILUKU	1
202010991828	Traffic Signal - Keala Pl	KEALA PL TRF-LITE	KIHEI	1
202011299544	Lahaina Park	LAUNIUPOKO PARK- RESTROOM	LAHAINA	1
202014000923	Papohaku Beach Park	PAPOHAKU BEACH PARK	MAUNALOHA	1
202014255055	Civic Center Boosters	CIVIC CENTER BOOSTER	LAHAINA	1
202011057389	Dept of Public Works	KAMEHAMEHA AVE/PAPA AVE	KAHULUI	1
202011525120	Wailea Parking Lights	KILOHANA DR	KIHEI	1
201014620920	Hale Mahaolu Ewalu Senior Housing	63 OHIA KU ST E101	PUKALANI	1
202013698594	Kaunoa Senior Center	ALAKAPA PL	PAIA	1
202013462967	Traffic Signal	WAKEA/KAM AVE TRF-SIG	KAHULUI	1
202013873742	Honokowai Booster Pump	LOWER HONOAPIILANI RD BSTR-1	LAHAINA	1
202011427640	Makawao Tennis Court	1602 MAKAWAO AVE	MAKAWAO	1
201014620235	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B202	PUKALANI	1
202013598430	Ukumehame Firing Range	H PIILANI HWY FIRING	LAHAINA	1
202014198347	Wailea Tank - Booster	WALEA TANK BOOSTERS	KIHEI	1
202011057611	Traffic Signal - Lower Main & Mill St	L MAIN/MILL ST TRAFFIC	WAILUKU	1
202011396266	Wailuku Fire Station	1972 KINIPOPO ST	WAILUKU	1
202010659698	Traffic Signal - C Road & Piilani Hwy	C RD/PIILANI HWY TRF-LITE	KIHEI	1
202011042357	Iao Water Treatment Plant	IAO VALLEY RD E90	WAILUKU	1
201014620870	Hale Mahaolu Ewalu Senior Housing	59 OHIA KU ST D201	PUKALANI	1
201014620540	Hale Mahaolu Ewalu Senior Housing	59 OHIA KU ST D101	PUKALANI	1
201014790491	Hale Mahaolu Ewalu Senior Housing	57 OHIA KU ST HM	PUKALANI	1
202010982900	Traffic Signal	PUKALANI ST TRF-SIG	PUKALANI	1
202010303032	Traffic Signal	KAHULUI TANK SCADA	WAILUKU	1
202010909879	Dept of Parks and Rec	75 MAKOMAKO ST	MAKAWAO	1
201014621340	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F106	PUKALANI	1
202013402138	Mokuhau Park	NENEA ST	WAILUKU	1
202010977405	Dept of Public Works	N MARKET ST	WAILUKU	1
201014620102	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST B201	PUKALANI	1
201014621316	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F206	PUKALANI	1
201014790509	Hale Mahaolu Ewalu Senior Housing	59 OHIA KU ST HM	PUKALANI	1
202010434886	Kule Extention B	3690 LOWER KULA RD	KULA	1
202010983403	Pukalani Community Center	PUKALANI ST	PUKALANI	1
201014621118	Hale Mahaolu Ewalu Senior Housing	61 OHIA KU ST F101	PUKALANI	1
202010430173	Kahalui Bobby Sox Field	LONO BALL PARK AVE	KAHULUI	1
201015746997	Tank Farm - Pulehu Rd	8100 PULEHU RD TANK FARM	PUUNENE	1
202013841335	Kalama Park	S KIHEI RD	KIHEI	1

201014790483	Hale Mahaolu Ewalu Senior Housing	55 OHIA KU ST HM	PUKALANI	1
202014328936	Dept of Parks and Rec	1758 H PIILANI HWY	LAHAINA	1
201013563832	Dept of Parks and Rec	KAM AVE	KAHULUI	1
201014790913	Hale Mahaolu Ewalu Senior Housing	63 OHIA KU ST HM	PUKALANI	1
202010276303	Kaunoa Senior Center	401 ALAKAPA PL E3	PAIA	1
202011088624	Dept of Parks and Rec	1758 H PIILANI HWY	LAHAINA	1
202010185785	4th Marine Division Memorial Park	KOKOMO RD	HAIKU	1
202010214288	Wakiu Well - Pump - 559, 560	HANA HWY	HANA	1
201015522638	Puuohala Basketball Court	1660 PUUOHALA RD PARK	WAILUKU	0
201014790475	Hale Mahaolu Ewalu Senior Housing	53 OHIA KU ST HM	PUKALANI	0
202011096148	Claims Division	MILL ST	LAHAINA	0
202011149293	Police Station	548 AKAHU ST	LANAI CITY	0
202013901709	Court	MPC COURT-YA	KAUNAKAKAI	0
202011247733	Lahaina Civic Center	H PIILANI HWY	LAHAINA	0
202014299822	Dept of Finance	KULA HWY	KULA	0
202013216538	Reservoir	WAIKAMOI RD KAHA-RSV	MAKAWAO	0
202011525955	Kilohana	KILOHANA DR E1-12	KIHEI	0
202010431536	Lanai Community Complex	46 FRASER AVE	LANAI CITY	0
202013218294	Kilohana Park	KILOHANA BASKETBA	KAUNAKAKAI	0
202010979872	Dept of Finance	S MARKET ST	WAILUKU	0
202014035721	Nahiku SCADA System	L NAHIKU RD E1-6	HANA	0
202010764415	Dept of Public Works	BALDWIN AVE PKLOT	PAIA	0
201014380087	Dept of Parks and Rec	22 E WAIKO RD BASKETBALL	WAILUKU	0
202010928291	Kula Ag - Pump Station	PULEHU RD 3	KULA	0
202011100049	Dept of Public Works	PIIKEA AVE/LILOA DR	KIHEI	0
202011087980	Dept of Parks and Rec	1758 H PIILANI HWY	LAHAINA	0
202013931847	Makawao Public Parking Lot	MAKAWAO AVE PRK-LITE	PUKALANI	0
202013718400	Little League Park	K KAI LITTLE LEAGUE PRESS-BO	KAUNAKAKAI	0
202010116624	Kaunoa Senior Center	401 ALAKAPA PL	PAIA	0
202010826883	Hana Beach Pavilion	1628 KEAWA PL	HANA	0
201014982361	Haleakala Hwy Pump	0 HALEAKALA HWY PUMP	KULA	0
202011088327	Dept of Parks and Rec	1758 H PIILANI HWY	LAHAINA	0
202013276573	Kalae - Water Tank	KALAE WATER-TN	KUALAPUU	0
202010242941	Lipoa St - Reservoir	LIPOA ST RESERVOIR	KIHEI	0
201011193327	Dept of Finance	201 KANALOA AVE	WAILUKU	0
202014350120	Park	WELLS ST PARK	WAILUKU	0
202011946995	Alaeloa Tank	ALAELOA TANK	LAHAINA	0
202011946599	Napili Water Treatment Plant	H PIILANI HWY	LAHAINA	0
202011214287	Dept of Finance	1295 MAKAWAO AVE SHOP	MAKAWAO	0
202011480714	Wailea Parking Lights	S KIHEI RD	KIHEI	0
201010296311	Department of Water Supply	ULUANUI RD	KAUNAKAKAI	0
202010656843	Pump - DHHL #1 - 3000 Kula	KULA HWY 3000	KULA	0
202014217121	Maalaea Valve	HAUOLI ST	WAILUKU	0
202010141804	Dept of Finance	LAE ST	PAIA	0
202011164623	Department of Water Supply	HWN HOMES #4	KULA	0

202010656892	Pump - DHHL #3 - 5000 Kula	KULA HWY 2355	KULA	0
202010150318	Onehee	E5 ONEHEE ST ST	KAHULUI	0
202011427566	Wailuki Heights - Tank 29	KUIKAHI DR HTS-4	WAILUKU	0
202010005900	Ukumehame Firing Range	UKUMEHAME FIRING RANGE	LAHAINA	0
202013374436	Kamaole Storage Tank	PIILANI HWY	KIHEI	0
201012705160	Dept of Parks and Rec	OLOMEA ST/MAKAI PARK	WAILUKU	0
202013559655	Waiehu Golf Course	2220 KAHEKILI HWY	WAILUKU	0
202011030691	Onehee	7 ONEHEE ST	KAHULUI	0
202010005280	Old Wailuku Heights Tank	EKOA PL E1A-8	WAILUKU	0
202010815068		MO OLU ST IRRIG	WAILUKU	0
202010730796	Upper Paia - Concrete Tank	BALDWIN AVE	PAIA	0
201015937083		2231 HALEWAIU ST	WAILUKU	0
201015937117		2221 HALEWAIU ST	WAILUKU	0
202010866020	Ainakea Park	AINAKEA RD	LAHAINA	0
202013309945	Civil Defense Siren	MLOA HWY 1ST-STRE	MAUNALOA	0
201016146593	Kaahumanu Park Lighting & Carnival Meter	KAAHUMANU AVE SOCCER	WAILUKU	0
202010593368	Haliimaile Tennis Court	HALIIMAILE RD E4I	MAKAWAO	0
202011046580	Kaahumanu Park Lighting & Carnival Meter	KAAHUMANU AVE SOCCER	WAILUKU	0

### Schedule B

The schedule below contains identified Purchaser owned TMKs and the adjacent TMKs owned by private parties. The Parties agree and acknowledge that prior to the Commencement of Installation of a System on an adjacent TMK land owner's Site listed in this **Schedule B to Exhibit 2**, a land lease (the "**Land Lease**") is required with the land owner of such Site. The Land Lease shall be in form and substance satisfactory to the Purchaser. The Parties agree that any Land Lease entered into with a third party owner of a Site shall provide that the Purchaser shall (i) have no monetary obligations under the Land Lease; except as set forth in item (v) below; (ii) no affirmative or negative covenants and/or obligations under the Land Lease; (iii) no liability to any party or person under the Land Lease; (iv) no obligation of indemnification under the Land Lease; and (v) pay no greater than the sum of \$1.00 per year under any Land Lease, which sum is subject to the non-appropriation clause set forth in Section 17.d. of this Agreement and Section 36-41, Hawai'i Revised Statutes. The Parties further agree that any Land Lease shall provide that if a System or a Site subject to such Land Lease is terminated pursuant to this Agreement, including but not limited to Sections 2.d., 2.e. and 5.g. of this Agreement, or the terms of the Land Lease, the Purchaser shall be released from any and all obligations or responsibilities related to such Land Lease without any further action by the Purchaser. Seller agrees that it shall be responsible for any and all necessary title searches, licenses, permits, approvals and entitlements related to a Land Lease and installation and maintenance of the System thereon. A draft of any Land Lease shall be provided to Purchaser for review and approval no later than thirty (30) business days prior to the target date of execution.

*[Schedule follows on next page]*

County Owned TMK	Owner Name	Adjacent TMK	Adjacent TMK Owner	Acreage
22024010000	COUNTY OF MAUI	220020840000	HALEAKALA RANCH COMPANY	2,175
220240110000	COUNTY OF MAUI	220020840000	HALEAKALA RANCH COMPANY	2,175
220240260000	COUNTY OF MAUI, BOARD OF WATER SUPPLY	220020840000	HALEAKALA RANCH COMPANY	2,175
220020700000	COUNTY OF MAUI	220020010003	HALEAKALA RANCH COMPANY	2,504
220020740000	BOARD OF WATER SUPPLY	220020010012	HALEAKALA RANCH COMPANY	2,504
220020510000	COM/BD OF WATER SUPPLY	220020010013	HALEAKALA RANCH COMPANY	2,504
230070330000	BOARD OF WATER SUPPLY COUNTY OF MAUI	230070370000	HALEAKALA RANCH COMPANY	11
230050250000	BOARD OF WATER SUPPLY	230050040000	HALEAKALA RANCH COMPANY	9,908
230060060000	COUNTY OF MAUI	230050040000	HALEAKALA RANCH COMPANY	9,908
230060060000	COUNTY OF MAUI	230060010000	HALEAKALA RANCH COMPANY	1,383
230040330000	COUNTY OF MAUI	230040130000	HALEAKALA RANCH COMPANY	643
230040320000	COUNTY OF MAUI	230040130000	HALEAKALA RANCH COMPANY	643
230040340000	COUNTY OF MAUI	230040160000	HALEAKALA RANCH COMPANY	752
230040200000	COUNTY OF MAUI	230040160000	HALEAKALA RANCH COMPANY	752
440020290000	COUNTY OF MAUI	440020390000	PIONEER MILL COMPANY, LLC and KAA NAPALI LAND MANAGEMENT CORP	108
220020750000	COUNTY OF MAUI	220020690000	MONSANTO TECHNOLOGY LLC	310
210080570000	COUNTY OF MAUI Fee Owner	210080010000	ULUPALAKUA RANCH INC Fee Owner	2,564
210081390000	BOARD OF WATER SUPPLY-COM	210081400000	WAILEA GOLF LLC Fee Owner	374
210080960000	COUNTY OF MAUI	210080560000	HONU A'ULA PARTNERS LLC Fee Owner	567
340368880000	Owner not listed on records	330180020000	HORCAJO, ROBERT TRUST and HORCAJO, TAMARA TRUST	37
330020240000	COUNTY OF MAUI	330180020000	HORCAJO, ROBERT TRUST and HORCAJO, TAMARA TRUST	37
320140010000	BOARD OF WATER SUPPLY	320140010000	Wailuku Water Company LLC (sharing ownership of land with BWS)	5,306
350011070000	COUNTY OF MAUI	350010010000	LEDERMAN BROTHERS and HAWAIIAN GROWTH VENTURES LLC	268
350010210000	COUNTY OF MAUI	350010010000	LEDERMAN BROTHERS and HAWAIIAN GROWTH VENTURES LLC	268
350131400000	COUNTY OF MAUI	350010010000	LEDERMAN BROTHERS and HAWAIIAN GROWTH VENTURES LLC	268
350010910000	COUNTY OF MAUI	350011000000	KEHALANI COMMUNITY ASSOCIATION	5
250040060000	COUNTY OF MAUI	250040390000	MP EAST B LLC	2,438
250040800000	COUNTY OF MAUI	250040390000	MP EAST B LLC	2,438
250040140000	COUNTY OF MAUI	250040390000	MP EAST B LLC	2,438
250040530000	COUNTY OF MAUI	250040390000	MP EAST B LLC	2,438
250040540000	COUNTY OF MAUI	250040390000	MP EAST B LLC	2,438
250040750000	COUNTY OF MAUI	250040390000	MP EAST B LLC	2,438
250040810000	COUNTY OF MAUI	250040390000	MP EAST B LLC	2,438
250040050000	COUNTY OF MAUI	250040390000	MP EAST B LLC	2,438
460180190000	County of Maui and State of Hawaii	460180030000	BISHOP B P TR EST	1,137

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### Exhibit 3

#### General Terms and Conditions

1. **Purchase and Sale of Electricity.** Subject to and limited by the Purchaser Restrictions (hereinafter defined), Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the electricity generated by each System or Systems installed at each Site during the Term (as defined in Section 2.a. below). Electricity generated by each System or Systems installed at each Site shall be delivered to Purchaser at the Delivery Point related to such System and Site. Title to and risk of loss for the electricity generated by the System(s) installed at each Site passes to Purchaser from Seller at the System's respective Delivery Point. Purchaser may purchase electricity for any Site from other sources to the extent Purchaser's electricity consumption requirements at such Site exceed the output of the System(s) installed on such Site.
  
2. **Term and Termination.**
  - a. **Effective Date; Term.** This Agreement is effective as of the Effective Date (as defined on the cover page hereto). The electricity supply period under this Agreement commences on the Commercial Operation Date (as defined in Section 5) of the last System to be placed in service and continues for the duration of the Initial Term (as defined in **Exhibit 1**) and any Additional Term (as defined in **Exhibit 1**), unless earlier terminated as provided for in this Agreement (collectively, the "Term").
  
  - b. **Additional Terms.** The Parties may agree in writing to extend this Agreement as set forth in **Exhibit 1** at a Contract Price to be agreed.
  
  - c. **Termination Due to Contract Price Adjustments or Lack of Site Viability.** If, at any time after the Effective Date and prior to the Commencement of Installation (as defined in Section 5) of a System at a Site, Seller determines that the installation of such System at such Site will not be technically or economically viable for any reason, and Seller provides written notice to Purchaser that a Site is not viable for installation of a System (i.e. a new roof is required) and the Parties have attempted to negotiate in good faith a Contract Price adjustment without reaching agreement thirty (30) days following written notice from Seller, either Party may terminate a particular System and/or Site by providing ten (10) days' prior written notice to the other Party. Neither Party shall be liable for any damages in connection with a termination pursuant to this Section 2.c. After Commencement of Installation, the Contract Price shall not be subject to further adjustment pursuant to Section 5 of **Exhibit 1** or otherwise.
  
  - d. **Termination by Purchaser for Delay.** If Commencement of Installation of a System on a Site has not occurred 60 months after the Effective Date, this Agreement is terminated as to such Site and System unless Purchaser notifies the Seller that Purchaser waives the requirement as to such System and Site. Seller will be given a day for day extension for any System and Site that is delayed due to action or inaction of Purchaser (i.e. Approval of Engineering Drawings, Site Access). Purchaser shall not liable for any damages in connection with a termination pursuant to this Section 2.d.
  
  - e. **Termination at Purchaser's Discretion.** If, at any time after the Effective Date and prior to March 31, 2023, Purchaser determines that the installation of such System at such Site will not be viable for any reason, Purchaser shall have the right to terminate such System at such Site by providing written notice to the Seller by March 31, 2023. Purchaser shall not liable for any damages in connection with a termination pursuant to this Section 2.e.
  
  - f. **Amendments and Clarifications.** Purchaser represents that to the best of its knowledge, it is authorized and empowered under applicable laws, ordinances, rules, regulations, and codes to enter into this Agreement; this Agreement is a legal, valid and binding obligation; Purchaser has complied with all public bidding and procurement rules and laws applicable to this Agreement; Purchaser has made the necessary determinations and taken all necessary action to obtain all necessary consents, approvals and authorizations to enter into this Agreement; and Purchaser and Seller acknowledge that, to further ensure that this recital is true and correct, each party will use its best efforts to incorporate any necessary additional amendments and clarifications to this Agreement prior to March 31, 2023.
  
3. **Billing and Payment; Taxes.**
  - a. **Monthly Charges.** Purchaser shall pay Seller monthly for the electricity generated by each System and delivered to the Delivery Points at the \$/kWh rate shown in **Exhibit 1** (the "Contract Price"). The monthly payment for such energy will be equal to the applicable \$/kWh rate multiplied by the number of kWh of electricity generated during the applicable month, as measured by the Meters (as defined in Section 10). Subject to and limited by the Purchaser Restrictions, additional costs for items differing from the assumptions in **Exhibit 1**, Item 4 are Purchaser's responsibility.

responsibility.

- b. **Monthly Invoices.** Seller shall invoice Purchaser monthly. Such monthly invoices shall state (i) the amount of electricity produced by the System(s) at each Site and delivered to the related Delivery Point(s), (ii) the rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser.
- c. **Payment Terms.** All amounts due under this Agreement are due and payable net thirty (30) days following receipt of invoice. Within 30 days after receipt of an invoice, Purchaser may provide written notice to Seller of any alleged error therein. Any undisputed portion of the invoice amount not paid within such thirty (30) day period shall accrue interest at the annual rate of two and one-half percent (2.5%) above the Prime Rate (as published by the St. Louis Federal Reserve on the date of the invoice) but not to exceed the maximum rate permitted by law. If Seller notifies Purchaser in writing within thirty (30) days of receipt of Purchaser's notice of alleged error that Seller disagrees with the allegation of error in the invoice, the Parties shall meet, by telephone, conference call or otherwise, within ten (10) days of Seller's response for the purpose of attempting to resolve the dispute. All payments shall be made in U.S. dollars. If any payment adjustment is made in favor of Purchaser, the amount payable to Purchaser pursuant to its then current invoice shall be credited in an amount equal to such adjustment. If any such adjustment is in favor of Seller, Seller will add the amount of such adjustment to Purchaser's invoice for the next monthly period
- d. **Taxes.**
  - i. **Purchaser's Taxes.** Purchaser is responsible for any general excise tax in connection with the Purchaser's purchase of electricity pursuant to this Agreement.
  - ii. **Seller's Taxes.** Seller is responsible for: (1) payment of income taxes or similar taxes imposed on Seller's revenues due to the sale of electricity under this Agreement and (2) payment of all taxes or fees involved in constructing the Systems, including the payment of all taxes assessed on the generation, sale, delivery or consumption of electricity produced by each System and the interconnection of each System to the utility's electricity distribution system.

- 4. **RECs and Incentives.** As the owner of the System, Seller is entitled to the benefit of, and will retain all ownership interests in the RECs (defined below) and Incentives (defined below). Purchaser shall cooperate with Seller in obtaining, securing and transferring any and all RECs and Incentives. Purchaser is not obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Seller. Purchaser shall not make any filing or statements inconsistent with Seller's ownership interests in the RECs and Incentives. If any RECs or Incentives are paid or delivered directly to Purchaser, Purchaser shall immediately pay or deliver such items or amounts to Seller.

"Governmental Authority" means any federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, court, tribunal, arbitrating body or other governmental authority having jurisdiction or effective control over a Party.

"Incentives" means (i) a payment paid by a utility or state or local Governmental Authority based in whole or in part on the cost or size of the System such as a rebate, (ii) a performance-based incentive paid as a stream of periodic payments by a utility, state or Governmental Authority based on the production of the System, (iii) investment tax credits, production tax credits, and similar tax credits, grants or other tax benefits under federal, state or local law, and (iv) any other attributes, commodity, revenue stream or payment in connection with the System (such as ancillary or capacity revenue), in each case of (i) through (iv) relating to the construction, ownership, use or production of energy from the System, provided that Incentives shall not include RECs.

"REC" means a renewable energy credit or certificate under any state renewable portfolio, standard or federal renewable energy standard, voluntary renewable energy credit certified by a non-governmental organization, pollution allowance, carbon credit and any similar environmental allowance or credit and green tag or other reporting right under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program, in each case relating to the construction, ownership, use or production of energy from the System, provided that RECs shall not include Incentives.

5. **Project Completion.**

- a. **Project Development.** Seller shall diligently pursue the development, construction and installation of the System, subject to Section 2.c., Section 11 and the remaining provisions of this Section 5.
- b. **Permits and Approvals.** Seller shall use commercially reasonable efforts to obtain the following at its sole cost and expense (each an "Approval"):

- i any zoning, land use and building permits required for Seller to construct, install and operate the Systems; and
- ii. any agreements and approvals from the utility necessary in order to interconnect each System to the utility's electric distribution system.

Purchaser shall cooperate with Seller's reasonable requests to assist Seller in obtaining such Approvals, including, without limitation the execution of documents required to be provided by Purchaser to the local utility.

- c. **Commencement of Installation.** Seller shall exercise commercially reasonable efforts to achieve Commencement of Installation of all Systems on all Sites within twenty-four (24) months after the Effective Date. "Commencement of Installation" means the date that Seller or its installation contractor has begun physical installation of a System on a Site.

- d. **Force Majeure.**

**i. Force Majeure Event.** If either Party is unable to timely perform any of its obligations (other than payment obligations or as a result of a Budget Non-Appropriation Event) under this Agreement in whole or in part due to a Force Majeure Event, that Party will be excused from performing such obligations for the duration of the time that such Party remains affected by the Force Majeure Event; provided, that such Party uses commercially reasonable efforts to mitigate the impact of the Force Majeure Event and resumes performance of its affected obligations as soon as reasonably practical. The Party affected by the Force Majeure Event shall notify the other Party as soon as reasonably practical after the affected Party becomes aware that it is or will be affected by a Force Majeure Event. If the Force Majeure Event occurs during the Term and impacts the ability of a System on a Site to deliver electricity to the related Delivery Point, the Term as it relates to such System and Site will be extended day for day for each day delivery is suspended due to the Force Majeure Event, as permitted by law.

**ii. Extended Force Majeure.** If a Force Majeure Event notified by either Party under paragraph (i) above continues for a consecutive period of one hundred eighty (180) days or more within a twelve (12) month period, then either Party may terminate this Agreement as to the Site(s) affected without either Party having further liability under this Agreement with respect to the Site(s) affected except: (a) liabilities accrued prior to termination of such Site(s), (b) Seller shall remove the System(s) from such Site(s) as required under Section 9 (but Purchaser shall reimburse Seller for Seller's removal costs if the Force Majeure Event affects Purchaser and Purchaser elects to terminate the Agreement as to the Site(s) affected) and (b) if Purchaser elects to terminate the Agreement in accordance with this Section 5.d., Purchaser shall pay the applicable Termination Payment. Notwithstanding the foregoing, if the Force Majeure Event can be corrected through repair or restoration of the System(s) or other actions by Seller and, prior to expiration of the initial one hundred eighty (180)-day period, Seller provides written evidence to Purchaser that it is diligently pursuing such actions, then Purchaser shall not have the right to terminate this Agreement as to the Site(s) affected so long as Seller continues to diligently pursue such actions.

**iii. "Force Majeure Event"** means any event or circumstance beyond the reasonable control of and without the fault or negligence of Seller, including, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; piracy; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; animals; the binding order of any Governmental Authority; the failure to act on the part of any Governmental Authority (including, without limitation delays in permitting not caused by actions or omissions of the Party seeking such permit); unavailability of electricity from the utility grid; and failure or unavailability of equipment, supplies or products outside of Seller's control or due to a Force Majeure Event.

- e. **Extension of Time.** If Seller is delayed in achieving Commencement of Installation of a System or Systems on a Site due to a Force Majeure Event, the time for achievement of Commencement of Installation related to such System(s) and Site(s) affected by such Force Majeure Event will be automatically extended day for day for each day installation is suspended due to the Force Majeure Event, as permitted by law.

- f. **Commercial Operation.** Seller shall notify Purchaser in writing when it has achieved Commercial Operation for each System on each Site (the date of such notice, the "Commercial Operation Date"). "Commercial Operation" means that the System on a Site is mechanically complete, capable of providing electricity to the related Delivery Point at the nameplate capacity specified in Exhibit 2 and has permission to operate from the relevant Governmental Authority

and utility. Seller shall provide Purchaser with documentation reasonably acceptable to Purchaser to evidence that a System is ready to begin Commercial Operation, which documentation shall include but shall not be limited to, all certificates of insurance required to be submitted under Section 13. Seller shall conduct testing of a System not less than three (3) days prior to the Commercial Operations Date. Purchaser shall have the right, but not the obligation, to be present at and observe the testing.

- g. **Target Commercial Operation Date.** The Parties agree that the Commercial Operation Date for a System shall occur on or prior to the Target Commercial Operation Date (as defined below). If the Commercial Operation Date for a System on a Site has not occurred prior to or on the Target Commercial Operation Date, this Agreement is terminated as to such Site and System. Purchaser shall not be liable for any damages in connection with a termination pursuant to this Section 5.g.

Notwithstanding the foregoing, if Seller reasonably anticipates that a System on a Site will not achieve Commercial Operation by the Target Commercial Operation Date for such System and Seller has used its best efforts to complete such System by the Target Commercial Operation Date, Seller may request from Purchaser an extension of the Target Commercial Operation Date for such System. Seller shall provide a written request to Purchaser not less than thirty (30) days but not more than sixty (60) days prior to the Target Commercial Operation Date for a System. Such request shall state (i) the System and Site the Seller is requesting an extension for; (ii) the original Target Commercial Operation Date for such System; (iii) the reason for the extension of the Target Commercial Operation Date, (iv) the proposed action necessary for the delay and (v) the expected new Target Commercial Operation Date for such System. Purchaser may, but shall have no obligation to, approve the establishment of a new Target Commercial Operation Date. The establishment of a new Target Commercial Operation Date shall be at the sole and absolute direction of Purchaser. If Purchaser does not approve the establishment of a new Target Commercial Operation Date, upon the original Target Commercial Operation Date for the System, this Agreement shall terminate as to such Site and System as set forth above.

Additionally, if the Seller is otherwise in compliance with the terms of this Agreement and has used its best efforts to obtain all agreements and approvals from the utility with respect to a System on a Site by such System's Target Commercial Operation Date but through no fault of Seller the local electric utility or permitting authority has delayed issuing such agreements and approvals, then the Target Commercial Operation Date for such System shall be extended provided however, Seller agrees to continue to use its best efforts to obtain the issuance of such agreements and approvals from the utility.

"Target Commercial Operation Date" shall mean with respect to a System a date not later than the lesser of (i) forty-eight (48) months from the date of Commencement of Installation of such System and (ii) eighty-four (84) months from the Effective Date.

Seller shall send a written notice to Purchaser when the last System has reached Commercial Operation. Such notice shall include a list of all Systems on all Sites and the date that each such System achieved Commercial Operation. Additionally such notice shall include a list of any Sites set forth in **Schedule A to Exhibit 2** and **Schedule B to Exhibit 2** for which a system was not installed.

## 6. **Installation, Operation and Maintenance.**

- a. **Seller's General Obligations Regarding the System.** Subject to the terms and conditions of this Agreement, Seller shall design, engineer, install, commission, monitor, operate and maintain each System, in each case in a good and workmanlike manner and in accordance with this Agreement, applicable law and prudent solar industry practices in the state in which the Sites are located. Each System shall comply with all applicable rules, regulation and local building codes.
- b. **System Design Approval.** Seller shall provide Purchaser with a copy of each System design for approval prior to Commencement of Installation of such System. Purchaser shall have thirty (30) days after receipt to approve or disapprove the design. Failure by Purchaser to respond within such thirty (30) day period shall be deemed approval of the design. If Purchaser disapproves the design, Seller shall modify the design and resubmit it for Purchaser's approval. If the System design modifications requested by Purchaser render the System non-viable, Seller may abandon that particular System or terminate this Agreement with respect to such System and Site pursuant to Section 2.c. above. Seller shall seek approval from Purchaser for any variances to the approved construction plans and shall organize the procurement of all materials and equipment for the installation of each System.

Seller shall perform all work in connection with the furnishing, installation, testing and commissioning of the Systems at the Sites on a schedule approved by Purchaser and in a manner that minimizes inconvenience and interference with Purchaser's use of the Sites.

Seller shall be responsible for making arrangements to ensure that all solar modules and photovoltaic panels are offloaded individually to rooftops to minimize potential overloading and shall by or through retaining a licensed structural engineer, at Seller's sole cost, ensure that each System installation and means of attachment is sufficient to satisfy, as applicable, the wind design requirements as required by the local county building codes or the Site's actual wind design requirements, whichever is stricter.

Seller shall ensure all energy generated by each System conforms to applicable utility specifications for energy being generated and delivered to the Site's electric distribution system, which shall include the installation of proper power conditioning and safety equipment, submittal of necessary specifications, coordination of utility testing and verification and all related costs.

Energy provided pursuant to this Agreement shall be of a quality equal to or better than electrical energy produced by the local electric utility.

- c. **System Repair and Maintenance.** Seller, at its sole cost and expense, shall provide all spare parts, Systems operation, repair, monitoring and maintenance services and any initial training required for Purchaser staff for Seller-installed equipment for the Term of this Agreement, including the monitoring and maintenance of metering equipment. Seller may suspend delivery of electricity from a System at a Site to the related Delivery Point for the purpose of maintaining and repairing such System; provided that Seller shall use commercially reasonable efforts to (i) minimize any interruption in service to the Purchaser, and (ii) limit any such suspension of service to weekend or off-peak hours. Scheduled and unscheduled maintenance and repairs shall be undertaken at Seller's sole cost and expense, except that Purchaser shall reimburse Seller for the reasonable cost of any repairs or maintenance resulting from damage caused by Purchaser, its agents, employees or contractors. Seller shall commence repairs to a malfunction in a System and restore the supply of energy as soon as reasonably possible after notice or upon its own discovery of any malfunction in the operation of such System or interruption in the supply of energy from such System. If an emergency condition exists, Seller shall promptly dispatch the appropriate personnel immediately upon becoming aware thereof to perform the necessary repairs or corrective action in an expeditious and safe manner. Emergency maintenance personnel representing the Seller shall be on site within 72 hours of the notification to assess the condition and shall commence corrective action as soon as reasonably practicable.

Seller shall be responsible to repair any leakage occurring from any System installation and for the cost of any damage related to such leakage(s), provided that Purchaser shall promptly notify Seller of any roof penetration or leakage of which it has actual knowledge and take action to mitigate such damage where reasonably practical.

- d. **Outages.** Purchaser shall be permitted two (2) twenty-four (24) consecutive hour days offline (each, a "Scheduled Outage") per calendar year during the Term, during which days Purchaser shall not be obligated to accept or pay for electricity from the Systems; provided, however, that Purchaser shall have notified Seller in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of such Scheduled Outage. In the event that Scheduled Outages exceed two (2) days per calendar year for a reason other than a Force Majeure Event or Budget Non-Appropriation Event, and for all unscheduled outages, Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during each hour of such excess Scheduled Outages or unscheduled outages and shall invoice Purchaser for such amount in accordance with this Agreement.
- e. **No Alteration of Sites.** Not less than thirty (30) days prior to making any alterations or repairs to a Site listed in Schedule A to Exhibit 2 or any Purchaser owned TMK listed in Schedule B to Exhibit 2 (except for emergency repairs) or any Improvement thereon which may adversely affect the operation and maintenance of a System, Purchaser shall inform Seller in writing and, thereafter, shall use commercially reasonable efforts to conduct such repairs, alterations or improvements in compliance with any reasonable request made by Seller within ten (10) days after having received such written request to mitigate any adverse effect. If any repair, alteration or improvement result in a permanent and material adverse economic impact on a System, Purchaser may request relocation of a System under Section 8 hereof. To the extent that temporary disconnection or removal of a System is necessary to perform such alterations or repairs, Seller shall perform such work, and any re-connection or re-installation of a System, at Purchaser's cost, subject to Sections 6.b. and 6.c. Seller shall make any alterations and repairs in a good and workmanlike manner, in compliance with this Agreement and all applicable laws, codes and permits.

## 7. **Miscellaneous Rights and Obligations of the Parties.**

- a. **Access Rights<sup>1</sup>.** Purchaser hereby grants to Seller and to Seller's Agents (as defined below) and the utility (i) a non-

<sup>1</sup> This Agreement provides for access to the Sites set forth in Schedule A to Exhibit B and the Purchaser owned TMKs listed in Schedule B to Exhibit 2 through a license and assumes that the Purchaser is the owner of the Sites set forth in Schedule A to Exhibit B and the Purchaser owned TMKs listed in Schedule B to Exhibit 2. Prior to the Commencement of Installation of a System on a TMK owned by a

exclusive license running with each Site set forth in **Schedule A to Exhibit 2** or any Purchaser owned TMK listed in **Schedule B to Exhibit 2** (the “**Non-Exclusive License**”) for access to, on, over, under and across such Site from the Effective Date until the date that is ninety (90) days following the date of expiration or earlier termination of this Agreement related to such Site (the “**License Term**”), for the purposes of performing all of Seller’s obligations and enforcing all of Seller’s rights set forth in this Agreement and otherwise as required by Seller in order to effectuate the purposes of this Agreement. Seller and Seller’s Agents must comply with Purchaser’s site safety and security requirements when on any Site set forth in **Schedule A to Exhibit 2** or any Purchaser owned TMK listed in **Schedule B to Exhibit 2** during the License Term. During the License Term, Purchaser shall preserve and protect Seller’s rights under the Non-Exclusive License and Seller’s access to such Site(s) and shall not interfere, or permit any third parties under Purchaser’s control to interfere with such rights or access. Seller may record a customary memorandum of license in the land records respecting the Non-Exclusive License.

- b. **OSHA Compliance.** Each Party shall comply with all Occupational Safety and Health Act requirements and other similar applicable safety laws and codes with respect to such Party’s performance under this Agreement.
- c. **Insolation.** Purchaser acknowledges that unobstructed access to sunlight (“**Insolation**”) is essential to Seller’s performance of its obligations and a material term of this Agreement. Purchaser shall not, to the extent within its reasonable control, cause or permit any interference with a System’s Insolation on the Sites listed in **Schedule A to Exhibit 2** and the Purchaser owned TMKs listed in **Schedule B to Exhibit 2**, and shall ensure that vegetation on such Sites are regularly pruned or otherwise maintained to prevent interference with the System’s Insolation. If Purchaser discovers any activity or condition that could diminish the Insolation of a System on the Sites listed in **Schedule A to Exhibit 2** and the Purchaser owned TMKs listed in **Schedule B to Exhibit 2**, Purchaser shall immediately notify Seller and cooperate with Seller in preserving and restoring the System’s Insolation levels as they existed on the Effective Date.
- d. **Use and Payment of Contractors and Subcontractors.** Seller shall use suitably qualified, experienced and licensed contractors and subcontractors to perform its obligations under this Agreement. However, Seller shall at all times be responsible for the quality of the work performed by its contractors and subcontractors, remain liable for the negligence acts, errors or omissions of such contractors and subcontractors and shall continue to be responsible for performance of all obligations of Seller hereunder. Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under this Agreement.
- e. **Liens.**
  - i. **Lien Obligations.** Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature, except such encumbrances as may be required to allow Seller access to the Sites listed in **Schedule A to Exhibit 2** and the Purchaser owned TMKs listed in **Schedule B to Exhibit 2**, (each a “**Lien**”) on or with respect to the Systems. Seller shall not directly or indirectly cause, create, incur, assume or allow to exist any Lien on or with respect to such Sites or the Improvements thereon, other than those Liens which Seller is permitted by law to place on the Sites due to non-payment by Purchaser of amounts due under this Agreement (other than as a result Budget Non-Appropriation Event). The foregoing sentence shall not limit Liens on the Systems related to a financing as set forth in Section 17.b. Seller shall also pay promptly before a fine or penalty may attach to a Site any taxes, charges, or fees of whatever type of any relevant Governmental Authority, relating to any work performed under this Agreement by Seller or Seller’s Agents on a Site. Each Party shall immediately notify the other Party in writing of the existence of any such Lien following discovery of same, and subject to and limited by the Purchaser Restrictions (defined below), shall promptly (and in all events within thirty (30) days) cause the same to be discharged and released of record without cost to the other Party; provided, however, that each Party has the right to contest any such Lien, so long as it provides, subject to and limited by the Purchaser Restrictions, a statutory bond or other reasonable assurances of payment that either removes such Lien from title to the affected property, or that assures that any adverse judgment with respect to such Lien shall be paid without affecting title to such property.

“**Purchaser Restrictions**” means, with respect to any obligation imposed on the Purchaser pursuant to the terms of this Agreement, that Purchaser’s responsibility to satisfy such obligation is limited by (1) applicable laws; (2) Section 15.b. (Purchaser’s Requirements); (3) Section 17.e. (Termination for non-appropriation); and (4) the extent to which any actions required of Purchaser are applicable to Purchaser’s performance hereunder and not inconsistent with this Agreement. Notwithstanding and superseding anything to the contrary contained in this Agreement (and any exhibits and appendices attached hereto), Seller acknowledges and agrees that any and all

private landowner listed in **Schedule B to Exhibit 2**, a land lease is required with such land owner. For third party owned TMKs, Seller will have access to such Site(s) through the Land Lease.

obligations, duties, responsibilities, and liabilities of Purchaser under this Agreement and Purchaser's liability for and/or performance of such obligations, duties, and responsibilities under this Agreement (including any that are intended to survive the expiration or termination of this Agreement) are expressly subject to and limited by the Purchaser Restrictions.

- ii. **Lien Indemnity.** The Seller shall indemnify the Purchaser from and against all claims, losses, damages, liabilities and expenses resulting from any Liens filed against the Sites as a result of the Seller's breach of its obligations under Section 7.e.i.

8. **Relocation of System.**

If, during the Term, Purchaser ceases to conduct business operations at a Site listed in **Schedule A to Exhibit 2** and at any Purchaser owned TMK listed in **Schedule B to Exhibit 2** or vacates such Site, such Site has been destroyed (other than as a result of a Force Majeure Event); or the Purchaser is otherwise unable to continue to host System(s) on such Site or accept the electricity delivered by the System(s) on such Site for any other reason (other than a Default Event by Seller), Purchaser may propose in writing the relocation of the System(s), at Purchaser's cost, in lieu of termination of the Agreement by Seller with respect to such Site(s) affected for a Default Event by Purchaser. If such proposal is practically feasible and preserves the economic value of the agreement for Seller, the Parties shall seek to negotiate in good faith an agreement for the relocation of such System. If the Parties are unable to reach agreement on relocation of the System affected within sixty (60) days after the date of receipt of Purchaser's proposal, Seller may terminate this Agreement with respect to the Site(s) affected pursuant to Section 11.b.ii.

9. **Removal of System upon Termination or Expiration.**

Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option under Section 14.b, Seller shall, at its expense (unless expressly provided otherwise in this Agreement), remove all of the tangible property comprising the System from the Site with a targeted completion date that is no later than ninety (90) days after the expiration of the Term. The portion of the Site where the System is located shall be returned to substantially its original condition (excluding ordinary wear and tear), including the removal of System mounting pads or other support structures, and repair and restoration of the roof and the roof membrane. If the System is installed on the roof of an Improvement, Seller's warranties under Section 12.c.i shall apply, as applicable. Purchaser must provide sufficient access, space and cooperation as reasonably necessary to facilitate System removal on the Sites listed in **Schedule A to Exhibit 2**. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser may, at its option, to remove the System to a public warehouse and restore the Site to its original condition (other than ordinary wear and tear) at Seller's cost.

10. **Measurement.**

- a. **Meter.** Each System's electricity output during the Term shall be measured by Seller's meter at each Site, which shall be a revenue grade meter that meets ANSI-C12.20 standards for accuracy (each a "Meter" and collectively, the "Meters"). Seller shall install and maintain the Meters. Purchaser shall have access to the metered energy output data via the monitoring system installed and maintained by Seller as part of each System and upon Purchaser's request, Seller shall furnish a copy of all technical specifications and accuracy calibrations for each Meter.
- b. **Meter Calibration.** Seller shall test and calibrate the Meters in accordance with manufacturer's recommendations. Seller shall have each Meter tested at installation and then as necessary thereafter at Seller's expense by a certified, independent, third party approved by Purchaser. Purchaser shall be allowed to observe any Meter test and Seller shall provide notice of the testing to Purchaser at least ten (10) business days prior to the test date. Seller shall provide signed copies of the Meter test to Purchaser. In addition to the initial tests, the Seller shall test the Meters at any reasonable time upon the request of Purchaser. Purchaser shall reimburse Seller for the cost of the additional testes requested by Purchaser, unless such testing demonstrates that a Meter was operating outside of industry standard tolerance allowances or outside of standards defined by the State of Hawaii Public Utilities Commission for meter calibration and operation. Notwithstanding the foregoing, Purchaser may install, or cause to be installed, its own revenue-grade meter at the same location as a Meter. Purchaser shall have the right of access to all meters at reasonable times for the purpose of verifying readings and calibrations.
- c. **Meter Adjustments.** If testing of a Meter pursuant to this Section 10 indicates that such Meter is in error by more than two percent (2%) or if there is a discrepancy between the data from Purchaser's meter and the data from a Meter of greater than two percent (2%) over the course of a Contract Year, then Seller shall promptly repair or replace such Meter and reimburse Purchaser for the cost of any audit or testing (to the extent the same were paid by Purchaser).

Seller shall make a corresponding adjustment to the records of the amount of energy based on such test results for (a) the actual period of time when such error caused inaccurate meter recordings, if such period can be determined to the mutual satisfaction of the Parties, or (b) if such period cannot be so determined, then a period equal to one-half (1/2) of the period from the later of (i) the date of the last previous test confirming accurate metering and (ii) the date the Meter was placed into service; provided, however, that such period shall in no case exceed two (2) years.

11. **Default, Remedies and Damages.**

a. **Default.** Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below is deemed a “**Defaulting Party**”, the other Party is the “**Non-Defaulting Party**” and each of the following is a “**Default Event**”:

i. failure of a Party to pay any amount due and payable under this Agreement (unless due to a Force Majeure Event or a Budget Non- Appropriation Event), other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the Non-Defaulting Party of such failure to pay (“**Payment Default**”);

ii. failure of a Party to perform any material obligation under this Agreement (unless due to a Force Majeure Event or a Budget Non- Appropriation Event) not addressed elsewhere in this Section 11(a) within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that if the Default Event cannot reasonably be cured within thirty (30) days and the Defaulting Party has demonstrated prior to the end of that period that it is diligently pursuing such cure, the cure period will be extended for a further reasonable period of time, not to exceed ninety (90) days;

iii. any representation or warranty given by a Party under this Agreement was incorrect in any material respect when made and is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;

iv. a Party becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect (or, if any such actions are initiated by a third party, such action(s) is(are) not dismissed within sixty (60) days); or,

v. in the case of Purchaser as the Defaulting Party only, Purchaser (A) loses its rights to occupy and enjoy the a Sites listed in **Schedule A to Exhibit 2** and any Purchaser owned TMK listed in **Schedule B to Exhibit 2** (unless due to a Force Majeure Event), unless (I) the Parties agree upon a relocation under Section 8 above, or (II) subject to and limited by the Purchaser Restrictions, Purchaser pays the applicable Termination Payment for such Site determined under Section 6 of **Exhibit 1** within thirty (30) days after written request by Seller; or (B) prevents Seller from performing any material obligation under this Agreement unless such action by Purchaser is (I) permitted under this Agreement, or (II) is cured within ten (10) days after written notice thereof from Seller.

b. **Remedies.**

i. **Suspension.** Upon the occurrence and during the continuation of a Default Event by Purchaser, including a Payment Default (not as a result of a Budget Non- Appropriation Event), Seller may suspend performance of its obligations under this Agreement related to such Site(s) affected until the earlier to occur of the date (a) that Purchaser cures the Default Event in full, or (b) of termination of this Agreement with respect to the Site(s) affected. Seller’s rights under this Section 11.b.i are in addition to any other remedies available to it under this Agreement, at law or in equity.

ii. **Termination.** Upon the occurrence and during the continuation of a Default Event, the Non-Defaulting Party may terminate this Agreement with respect to the Site(s) affected, by providing five (5) days prior written notice to the Defaulting Party; provided, that, in the case of a Default Event under Section 11.a.iv, the Non-Defaulting Party may terminate this Agreement with respect to the Site(s) affected immediately.

iii. **Damages Upon Termination by Default.** Upon a termination of this Agreement with respect to the Site(s) affected pursuant to Section 11.b.ii, the Defaulting Party shall, subject to and limited by the Purchaser Restrictions, pay a termination payment to the Non-Defaulting Party determined as follows (the applicable “**Termination Payment**”):

(1) **Termination by Seller.** If Seller terminates this Agreement with respect to the Site(s) affected for a Default

Event by Purchaser, the applicable Termination Payment payable to Seller shall be equal to the sum of (i) the applicable amount set forth in the Termination Payment Schedule set forth as Item 6 of **Exhibit I** with respect to such Site(s), and (ii) any other amounts previously accrued under this Agreement and then owned by Purchaser to Seller with respect to such Site(s).

- (2) **Termination by Purchaser.** If Seller is the Defaulting Party and Purchaser terminates this Agreement with respect to a Site or Sites, the Termination Payment to Purchaser will be equal to the sum of (i) the present value of the excess, if any, of the reasonably expected cost of electricity from the utility over the Contract Price for the reasonably expected production of the System(s) at such Site(s) for the remainder of the Initial Term or the then current Additional Term, as applicable; (ii) all direct costs reasonably incurred by Purchaser by reason of the termination; and (iii) any and all other amounts previously accrued under this Agreement with respect to such Site(s) and then owed by Seller to Purchaser. The Termination Payment determined under this Section 11.b.iii.(2) cannot be less than zero.

iv. **Liquidated Damages.** The Parties agree that, if Seller terminates this Agreement with respect to a Site prior to the expiration of the Term pursuant to Section 11.b.ii, actual damages would be difficult to ascertain, and the Termination Payment determined in accordance with Section 11.b.iii.(1) is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement with respect to such Site and is not a penalty.

- c. **Obligations Following Termination.** If a Party terminates this Agreement pursuant to Section 11.b.ii, then following such termination, Seller shall remove the equipment constituting the System(s) from such Site(s) affected in compliance with Section 9 above at the sole cost and expense of the Defaulting Party, *provided, however* that Seller shall not be required to remove the System from such Site(s) affected following the occurrence of a Default Event by Purchaser pursuant to Section 11.a.i, unless Purchaser pre-pays the cost of restoration reasonably estimated by Seller.

i. **Reservation of Rights.** Except in the case of a termination under Section 11.b.ii and payment of a Termination Payment, if any, determined pursuant to Section 11.b.ii, nothing in this Section 11 limits either Party's right to pursue any remedy under this Agreement, at law or in equity, including with respect to the pursuit of an action for damages by reason of a breach or Default Event under this Agreement.

ii. **Mitigation Obligation.** Regardless of whether this Agreement with respect to a Site is terminated for a Default Event, the Non-Defaulting Party must make commercially reasonable efforts to mitigate its damages as the result of such Default Event; provided that such obligation shall not reduce Purchaser's obligation to pay the applicable Termination Payment set forth in Section 6 of **Exhibit I** with respect to such Site following a Default Event by Purchaser.

iii. **No Limitation on Payments.** Subject to and limited by the Purchaser Restrictions, nothing in this Section 11 excuses a Party's obligation to make any payment when due under this Agreement, including with respect to payments for electricity that would have been delivered to Purchaser but for a Purchaser breach or Default Event.

iv. **Effect of Termination.** Any termination of this Agreement with respect to a Site shall not relieve either Party from its obligations under this Agreement as to any other Site(s) not so terminated.

## 12. **Representations and Warranties.**

- a. **General Representations and Warranties.** Each Party represents and warrants to the other the following:

i. Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and will not violate any law; and this Agreement is the valid obligation of such Party, 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).

ii. Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

- b. **Purchaser's Representations and Warranties.** Purchaser represents and warrants to Seller the following:

i. **Licenses.** (a) Purchaser has title to the Sites listed in **Schedule A of Exhibit 2** and any Purchaser owned TMKs listed in **Schedule B of Exhibit 2** such that Purchaser has the full right, power and authority to grant the Non-Exclusive License on such Sites in Section 7.a. and (b) such grant of the Non-Exclusive License to the Sites listed in **Schedule A of Exhibit 2** and any Purchaser owned TMKs listed in **Schedule B of Exhibit 2** does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or such Sites and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects such Sites.

ii. **Other Agreements.** Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser is bound.

iii. **Accuracy of Information.** All information provided by Purchaser to Seller, as it pertains to (a) the Sites, (b) the Improvements on which the System(s) is to be installed, if applicable, (c) Purchaser's planned use of the Sites and any applicable Improvements, and (d) Purchaser's estimated electricity requirements, is accurate in all material respects.

iv. **Purchaser Status.** Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.

v. **Limit on Use.** No portion of the electricity generated by a System shall be used to heat a swimming pool.

c. **Seller's Covenants and Warranties.**

i. If Seller penetrates the roof of any Improvement on which a System is installed, during System installation or any System repair, Seller shall warrant roof damage it causes as a direct result of these roof penetrations. This roof warranty shall terminate upon the later of (a) one (1) year following the completion of the System installation or repair, as the case may be, and (b) the length of any then-effective installer warranty on the applicable roof.

ii. If Seller damages any other part of a Site or any Improvement (including roof damages not covered under Section 12.c.i above), Seller shall repair or reimburse Purchaser or land owner, as applicable, for such damage, as agreed by the Parties.

iii. Seller shall take all actions reasonably necessary to ensure that each system is capable of providing energy at a continuous rate at the designated capacity.

iv. Seller has obtained or will obtain all required consents and licenses from the owners of the Site(s) listed in **Schedule B of Exhibit 2** so that Seller may perform its obligations under this Agreement.

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

d. **NO OTHER WARRANTY.** THE WARRANTIES SET FORTH IN SECTIONS 12.a. AND 12.c. OF THIS AGREEMENT ARE PURCHASER'S SOLE AND EXCLUSIVE BASIS FOR ANY CLAIM OR LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS SECTION 12, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. OTHER THAN AS EXPRESSLY SET FORTH IN SECTIONS 12.a. AND 12.c., NO WARRANTY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, APPLIES UNDER THIS AGREEMENT.

13. **Insurance.**

a. **Insurance Coverage.** Commencing on the Commercial Operations Date of the first System to be placed in service and through the end of the Term, the Seller shall maintain the following insurance, as applicable. Seller shall maintain or ensure the following is maintained (a) property insurance on each System for the replacement cost thereof, (b) commercial general liability insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate, (c) employer's liability insurance with coverage of at least \$1,000,000 and (iv) workers' compensation insurance as required by law. Seller's coverage may be provided as part of an enterprise insurance program. Seller shall ensure Purchaser, Purchaser's officers, employees, agents and representatives, and any person acting for or on their

behalf is named as additional insured under the commercial general liability insurance policy obtained by Seller as required hereunder. Seller may not commence performance of work or other services under this Agreement or the construction, installation, ownership, operation, maintenance or removal of a System until Seller purchases and provides to Purchaser evidence (such as insurance certificates) reasonably satisfactory to Purchaser that Seller has obtained all required insurance coverage; provided however that the failure of the Purchaser to obtain such satisfactory evidence from Seller before permitting Seller to commence performance under this Agreement shall not be deemed to be a waiver by Purchaser, to any extent, of any insurance requirements herein and Seller shall remain under a continuing obligation to obtain and maintain insurance coverage and to supply to Purchaser evidence of insurance coverage satisfactory to the Purchaser.

The failure of Seller to obtain or keep any insurance required hereunder in force shall constitute a material breach of this Agreement and in addition to any other remedies provided herein, the Purchaser reserves the right to stop the energy services until evidence of the requisite insurance coverage satisfactory to the Purchaser is provided to the Purchaser.

Seller shall timely renew the required insurance coverage as necessary to keep such coverage in effect for the period specified herein and shall supply Purchaser within thirty (30) days of any expiration or renewal dates for such insurance policies or upon binding or renewal insurance policies, with evidence of all required insurance coverage, including updated replacement certificates of insurance and amendatory riders or endorsements that clearly evidence the continuation of all insurance coverage in the same manner, limits of protection and scope of coverage as was provided by the certificates of insurance, amendatory riders or endorsements originally supplied.

Upon the failure of Seller to provide and maintain insurance required herein, after ten (10) days prior written notice to comply from Purchaser, the Purchaser may, but shall not be required to, procure such insurance, at the sole cost and expense of Seller, and Seller agrees to immediately reimburse Purchaser for the cost thereof plus fifteen percent (15%) for administrative overhead. Any lapse in or failure by Seller to procure, maintain or keep in full force and effect such insurance coverage as is required under this Agreement, at any time during and throughout the Term of this Agreement, shall be a material breach of this Agreement by Seller.

Purchaser may, upon reasonable notice and reasonable grounds, request Seller to increase or change the form, type, coverage or coverage limits of the insurance required hereunder as a result of changes in the nature, size or other attributes of risks insured, changes in type, availability of cost of insurance, and similar factors, in which event Seller shall cooperate in good faith with such request and will obtain such requirement insurance unless Seller reasonably determines that it is commercially impractical to do so.

- b. **Policy Provisions.** Seller's insurance policies shall (i) contain a provision whereby the insurer agrees to give Purchaser at least thirty (30) days (ten (10) days for non-payment of premiums) written notice before the insurance is cancelled, or terminated, (ii) be written on an occurrence basis, and (iii) be maintained with companies either rated no less than A-VII as to Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the Purchaser. All insurance required to be furnished by Seller hereunder shall be pursuant to policies in form and substance reasonably satisfactory to Purchaser and issued by companies of sound and adequate financial responsibility who are authorized to do business in the state of Hawaii, all reasonably satisfactory to Purchaser.
- c. **Certificates.** Seller shall deliver to the Purchaser certificates of insurance evidencing the above required coverage. Purchaser's receipt, review or acceptance of such certificate shall in no way limit or relieve the Seller of the duties and responsibilities to maintain insurance as set forth in this Agreement.
- d. **Deductibles.** Seller shall pay its own insurance deductibles, except in the case of claims resulting from a breach of this Agreement, in which case, subject to and limited by the Purchaser's Restrictions, the breaching Party is responsible for payment of the non-breaching Party's deductible for any responding insurance.
- e. **Seller to Require Seller's Agents to Provide Requisite Insurance Coverage.** Seller shall require each of Seller's officers, directors, employees, managers, contractors, subcontractors, agents, representatives and any other person acting on behalf of Seller or under Seller's control ("**Seller's Agents**") performing any portion of Seller's obligations hereunder to carry insurance coverage sufficient to cover exposure to risk presented by such agent's services, including the minimum scope and limits of insurance specified in this Section 13, whether or not Seller would be obligated to cover the same insurance coverage hereunder if Seller were performing any such obligation directly, and Seller may at its option, provide the insurance coverage for any or all of Seller's Agents and, if so, the evidence of insurance shall so stipulate.
- f. **Obtaining Insurance Coverage Does not Limit Responsibility.** Seller understands and agrees that any insurance protection furnished by Seller or any of Seller's Agents hereunder shall in no way limit such person's liability hereunder or fulfill or fully satisfy such person's indemnity, defense, and hold harmless obligations under the provisions of this Agreement. Notwithstanding said policy or policies of insurance, Seller shall be obligated for the full and total amount of any damage, injury, loss, liability, penalty, or assessment caused by Seller and/or Seller's

Agents under or in connection with this Agreement. The submission of insurance documentation to and acceptance by Purchaser which does not meet the requirements herein shall not be considered a waiver of the obligations of Seller, or the rights of Purchaser, under the terms of this Agreement.

**14. Ownership; Option to Purchase.**

**a. Ownership of System.**

i. **Ownership; Personal Property.** Throughout the Term, Seller shall be the legal and beneficial owner of the Systems, and all RECs and Incentives, and the Systems will remain the personal property of Seller and will not attach to or be deemed a part of, or fixture to, the Sites or any Improvement on which the Systems are installed. Each of the Seller and Purchaser agree that the Seller is the tax owner of the Systems and all tax filings and reports shall be filed in a manner consistent with this Agreement. The Systems will at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code.

ii. **Notice to Purchaser Lienholders.** Purchaser shall use commercially reasonable efforts to place all parties having a Lien on a Site or any Improvement on which a System is installed listed in **Schedule A of Exhibit 2** on notice of the ownership of such System and the legal status or classification of such System as personal property. If any mortgage or fixture filing against a Site listed in **Schedule A of Exhibit 2** could reasonably be construed as prospectively attaching to a System as a fixture of such Site, Purchaser shall provide a disclaimer or release from such lienholder.

iii. **Fixture Disclaimer.** If Purchaser is the fee owner of the Site, Purchaser consents to the filing of a disclaimer of a System as a fixture of the Site in the office where real estate records are customarily filed in the jurisdiction where the Site are located. If Purchaser is not the fee owner, Seller shall obtain such consent from such owner. For the avoidance of doubt, in either circumstance Seller has the right to file such disclaimer.

**b. Option to Purchase.**

i. **Exercise of Option.** At the end of the sixth (6th) and tenth (10th) Contract Years and at the end of the Initial Term and each Additional Term, so long as Purchaser is not in default under this Agreement, Purchaser may elect to purchase all, but not less than all, Systems from Seller on any such date for a purchase price equal to the greater of the Fair Market Value of the Systems or the Termination Payment set forth in Section 6 of **Exhibit 1** applicable as of the date of the transfer of title to the Systems. Purchaser shall notify Seller of its intent to purchase the Systems at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable, and the purchase shall be completed prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable.

ii. **Fair Market Value.** The "Fair Market Value" of the Systems shall be determined by mutual agreement of the Parties; provided, however, if the Parties cannot agree to a Fair Market Value within thirty (30) days after Purchaser has delivered to Seller a notice of its intent to purchase the Systems, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the Systems. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the Systems on an installed basis and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser will be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally.

iii. **Title Transfer; Warranties; Manuals.** Seller shall transfer good title to the Systems to Purchaser upon Seller's receipt of the purchase price and execution by the Parties of a written instrument or agreement to effect such transfer. The Systems will be sold "as is, where is, with all faults". Seller will assign to Purchaser any manufacturer's warranties that are in effect as of the date of purchase and which are then assignable pursuant to their terms, but Seller otherwise disclaims all warranties of any kind, express or implied, concerning the Systems (other than as to title). Seller shall also provide Purchaser all Systems' operation and maintenance manuals and logs in Seller's possession and provide Purchaser basic training on the operation and maintenance of the Systems upon Purchaser's reasonable request. Upon purchase of the Systems, Purchaser shall assume complete responsibility for the operation and maintenance of the Systems and liability for the performance of (and risk of loss for) the Systems, and, except for any Seller obligations that survive termination under Section 19.d., Seller will have no further liabilities or obligations hereunder for the Systems.

**15. Indemnification and Limitations of Liability.**

**a. Seller's Requirements.** Seller shall defend, indemnify and hold harmless the Purchaser, its affiliates and the

Purchaser's and its affiliates' respective directors, officers, shareholders, partners, members, agents and employees (collectively, the "**Indemnified Parties**"), from and against any loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "**Liabilities**") resulting from (1) any Claim (as defined in Section 15.c. relating to the Seller's breach of any representation or warranty set forth in Section 12 and (2) injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Seller or Seller's Agents in connection with this Agreement; provided, however, that nothing herein will require the Seller to indemnify the Indemnified Parties for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, an Indemnified Party. This Section 15.a. does not apply to Liabilities arising out of or relating to any form of Hazardous Substances or other environmental contamination, such matters being addressed exclusively by Section 15.d.

- b. **Purchaser's Requirements.** Purchaser shall be responsible for damages or injury caused by its officers, employees and agents in the course of their employment to the extent that Purchaser's liability for such damage or injury has been determined by a court or otherwise agreed to by Purchaser, and Purchaser shall pay for such damages and injury to the extent permitted by law, including without limitation: (a) the Non-Appropriation clause set forth in Section 17.d., and (b) Section 36-41, Hawai'i Revised Statutes, setting forth requirements for "energy performance contracts" as defined therein. Any provision of this Agreement (including an Exhibits, Addenda or other attachments) providing for an obligation by Purchaser over and above the manner stated herein shall be null and void. In each instance in this Agreement where Purchaser is obligated to assume responsibility or liability of any type or nature for damages or injuries, including any obligation to perform, be responsible for failure to perform, or pay monies, such obligation shall be subject to and limited by the provisions of this Section 15.b. Seller acknowledges that this provision, in itself, shall not constitute or be interpreted to be any type of indemnification, defense or hold harmless obligation of the Purchaser. The provisions of this paragraph shall survive termination of this Agreement with respect to events occurring prior to such termination.
- c. **Notice and Participation in Third Party Claims.** The Indemnified Party shall give the Seller written notice with respect to any Liability asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Seller may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Seller and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Seller. The Seller shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Seller, assume the defense of any Claim if the Seller fails to assume the defense of the Claim within a reasonable time. Neither Party may settle any Claim covered by this Section 15.c. unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Seller has no liability under this Section 15.c. for any Claim for which such notice is not provided if the failure to give notice prejudices the Seller.
- d. **Environmental Indemnification.**
- i. **Seller Indemnity.** Seller shall indemnify, defend and hold harmless Purchaser and all Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near any Site of any Hazardous Substance (as defined in Section 15.d.ii.) to the extent deposited, spilled or otherwise caused by Seller or any of Seller's Agents.
- ii. **Notice.** Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Sites generally or any deposit, spill or release of any Hazardous Substance. "**Hazardous Substance**" means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.
- e. **No Consequential Damages.** Except with respect to indemnification of third-party claims pursuant to Section 15.c., neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers will be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature (including, without limitation, lost revenues, lost profits, lost business opportunity or any business interruption) arising

out of their performance or non-performance hereunder even if advised of such. Notwithstanding the previous sentence, the Termination Payment set forth in Section 6 of **Exhibit 1** shall be deemed to be direct, and not indirect or consequential damages for purpose of this Section 15.e.

- f. **EXCLUSIVE REMEDIES.** TO THE EXTENT THAT THIS AGREEMENT SETS FORTH SPECIFIC REMEDIES FOR ANY CLAIM OR LIABILITY, SUCH REMEDIES ARE THE AFFECTED PARTY'S SOLE AND EXCLUSIVE REMEDIES FOR SUCH CLAIM OR LIABILITY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

16. **Change in Law.**

- a. **Impacts of Change in Law.** If Seller determines that a Change in Law has occurred or will occur that has or will have a material adverse effect on Seller's rights, entitlement, obligations or costs under this Agreement, then Seller may so notify the Purchaser in writing of such Change in Law. Within thirty (30) days following receipt by the Purchaser of such notice, the Parties shall meet and attempt in good faith to negotiate such amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller may terminate this Agreement with respect to the Site(s) affected and remove the System and restore the Site(s) in accordance with Section 9 without either Party having further liability under this Agreement with respect to the Site(s) affected except with respect to liabilities accrued prior to the date of termination.
- b. **Illegality or Impossibility.** If a Change in Law renders this Agreement or Seller's performance of this Agreement with respect to a Site, either illegal or impossible, then Seller may terminate this Agreement with respect to such Site(s) immediately upon notice to Purchaser and Seller shall remove the System(s) and restore the Site(s) so affected in accordance with Section 9 without either Party having further liability under this Agreement with respect to such Site(s) except with respect to liabilities accrued prior to the date of termination.
- c. **"Change in Law"** means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation, (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date (notwithstanding the general requirements contained in any applicable permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority.

17. **Assignment and Financing.**

a. **Assignment.**

i. **Restrictions on Assignment.** Subject to the remainder of this Section 17.a. this Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed. Purchaser may not withhold its consent to an assignment proposed by Seller where the proposed assignee has the financial capability and experience necessary to operate and maintain solar photovoltaic systems such as the Systems.

ii. **Permitted Assignments.** Notwithstanding Section 17.a.i.:

1. Seller may, by providing prior notice to Purchaser and without the prior written consent of Purchaser, assign, mortgage, pledge or otherwise directly or indirectly assign its interests in this Agreement to (A) any Financing Party (as defined in Section 17.b.), (B) any entity through which Seller is obtaining financing from a Financing Party, or (C) any affiliate of Seller or any person succeeding to all or substantially all of the assets of Seller; provided, that, Seller is not released from liability hereunder as a result of any assignment to an affiliate unless the assignee assumes Seller's obligations hereunder by binding written instrument; and
2. Purchaser may, by providing prior notice to Seller, assign this Agreement:
  - a. to an affiliate of Purchaser or a purchaser of the Site; provided, that, Purchaser is not released from liability hereunder by reason of the assignment unless the assignee assumes Purchaser's obligations hereunder by binding written instrument on terms satisfactory to Seller, including as to the assignee's

creditworthiness; and

- b. to an assignee that has an Investment Grade credit rating at the time of the assignment. "**Investment Grade**" means the assignee has a long-term unsecured debt rating from Moody's or S&P of at least Baa3 from Moody's and/or at least BBB- from S&P.

iii. Successors and Permitted Assignees. This Agreement is binding on and inures to the benefit of successors and permitted assignees. The restrictions on assignment contained herein do not prohibit or otherwise limit changes in control of Seller.

- b. Financing. The Parties acknowledge that Seller may obtain debt or equity financing or other credit support from lenders, investors or other third parties (each a "**Financing Party**") in connection with the installation, construction, ownership, operation and maintenance of the Systems. In furtherance of Seller's financing arrangements and in addition to any other rights or entitlements of Seller under this Agreement, Purchaser shall timely execute any consents to assignment (which may include notice, cure, attornment and step-in rights) or estoppels and negotiate any amendments to this Agreement that may be reasonably requested by Seller or the Financing Parties; provided, that such estoppels, consents to assignment or amendments do not alter the fundamental economic terms of this Agreement.
- c. Termination Requires Consent. Seller and Purchaser agree that any right of Seller to terminate this Agreement is subject to the prior written consent of any Financing Party.
- d. Termination for non-appropriation. Pursuant to Section 36-41(c)(5), HRS, the following two sentences are required to be included in this Agreement: "The continuation of this contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the applicable funding authority. If that authority fails to appropriate sufficient funds to provide for the continuation of the contract, the contract shall terminate on the last day of the fiscal year for which allocations were made" Due to the foregoing and certain constitutional limitations pertaining to multiple-year contracts, Purchaser and this Agreement are subject to a budget non-appropriation event if the applicable funding authority does not appropriate sufficient funding in any year covered by this Agreement to enable Purchaser to cover the continued procurement of energy and/or the performance of Purchaser's obligations under this Agreement (a "**Budget Non-Appropriation Event**"). To the extent Purchaser is (A) obligated to perform under this Agreement, (b) obligated to make any payments under this Agreement or (c) deemed liable under this Agreement, Purchaser's ability to satisfy such obligations or liabilities, particularly any obligations requiring the payment of any amounts of money, is limited to that which is permitted by law and is subject to the condition that funds are properly appropriated, allotted, or otherwise properly made available for the purpose of satisfying such obligations or liabilities.

This agreement will terminate in the event of a Budget Non-Appropriation Event without penalty. Upon termination Purchaser shall not be obligated to make any payment provided for in this Agreement beyond the then current Fiscal Year. Such termination shall not be considered or treated as a default under this Agreement or any other document. If this Agreement is terminated pursuant to this Section, the Purchaser agrees to surrender to the Seller the Systems, in good order and condition and in a state of repair that is consistent with prudent use and conscientious maintenance, except for reasonable wear and tear, and to cease use of the Systems. Upon termination of this Agreement, the Seller may, at the end of the then-current Fiscal Year, remove any fixture, structure or sign added by the Seller, which may be removed without damaging the Improvements. Seller shall remove the Systems and restore the Sites in accordance with Section 9.

## 18. Confidentiality.

- a. Confidential Information. To the maximum extent permitted by applicable law, if either Party provides confidential information ("**Confidential Information**") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information of the other Party, the receiving or learning Party shall (i) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (ii) refrain from using such Confidential Information, except in the negotiation, performance, enforcement and, in the case of Seller, financing, of this Agreement. The terms of this Agreement (but not the fact of its execution or existence) are considered Confidential Information of each Party for purposes of this Section 18.a.
- b. Permitted Disclosures. Notwithstanding Section 18.a.:
  - i. a Party may provide such Confidential Information to its affiliates and to its and its affiliates' respective officers,

directors, members, managers, employees, agents, contractors, consultants and Financing Parties (collectively, “**Representatives**”), and potential direct or indirect assignees of this Agreement if such potential assignees are first bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information. Subject to and limited by the Purchaser Restrictions, each Party is liable for breaches of this provision by any person to whom that Party discloses Confidential Information.

ii. Confidential Information does not include any information that (a) becomes publicly available other than through breach of this Agreement, (b) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena, (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. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall reasonably cooperate with the other Party’s efforts to limit the disclosure to the extent permitted by applicable law.

c. **Miscellaneous.** All Confidential Information remains the property of the disclosing Party and will be returned to the disclosing Party or destroyed (at the receiving Party’s option) after the receiving Party’s need for it has expired or upon the request of the disclosing Party. Each Party acknowledges that the disclosing Party would be irreparably injured by a breach of this Section 18 by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that subject to and limited by the Purchaser’s Restrictions, the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, for breaches of this Section 18. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 18, but will be in addition to all other remedies available at law or in equity. The obligation of confidentiality will survive termination of this Agreement for a period of two (2) years.

d. **Goodwill and Publicity.** Neither Party may (a) make any press release or public announcement of the specific terms of this Agreement or the use of solar or renewable energy involving this Agreement (except for filings or other statements or releases as may be required by applicable law), or (b) use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of the other Party. The Parties shall coordinate and cooperate with each other when making public announcements regarding this Agreement, the Systems and their use, and each Party may promptly review, comment upon and approve any publicity materials, press releases or other public statements before they are made. Notwithstanding the above, Seller is entitled to place signage on the Sites reflecting its association with the Systems.

## 19. **General Provisions**

a. **Definitions and Interpretation.** Unless otherwise defined or required by the context in which any term appears: (i) the singular includes the plural and vice versa, (ii) the words “herein,” “hereof” and “hereunder” refer to this Agreement as a whole and not to any particular section or subsection of this Agreement, (iii) references to any agreement, document or instrument mean such agreement, document or instrument as amended, restated, modified, supplemented or replaced from time to time, and (iv) the words “include,” “includes” and “including” mean include, includes and including “without limitation.” The captions or headings in this Agreement are strictly for convenience and will not be considered in interpreting this Agreement. As used in this Agreement, “dollar” and the “\$” sign refer to United States dollars.

b. **Choice of Law; Dispute Resolution.** The law of the state where the Systems are located governs all matters arising out of this Agreement without giving effect to conflict of laws principles. Any dispute arising from or relating to this Agreement shall be settled by arbitration in Wailuku, Hawaii. The arbitration shall be administered by Dispute Resolution, Inc. in accordance with its arbitration rules, and subject to and limited by the Purchaser’s Restrictions, judgment on any award rendered in such arbitration may be entered in any court of competent jurisdiction. If the Parties agree in writing, a mediator may be consulted prior to arbitration. Subject to and limited by the Purchaser’s Restrictions, the prevailing Party in any dispute arising out of this Agreement is entitled to reasonable attorneys’ fees and costs.

c. **Notices.** All notices under this Agreement shall be in writing and delivered by hand, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and will be deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices must be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either Party may specify in writing.

d. **Survival.** Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement,

including, without limitation provisions related to billing and payment and indemnification, will survive termination of this Agreement.

- e. **Further Assurances.** Each Party shall provide such information, execute and deliver any instruments and documents and to take such other actions as may be reasonably requested by the other Party to give full effect to this Agreement and to carry out the intent of this Agreement.
- f. **Waivers.** No provision or right or entitlement under this Agreement may be waived or varied except in writing signed by the Party to be bound. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver unless otherwise expressly provided.
- g. **Non-Dedication of Facilities.** Nothing in this Agreement may be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party may knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party may assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this Agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use commercially reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller may terminate this Agreement without further liability under this Agreement except with respect to liabilities accrued prior to the date of termination and remove the System in accordance with Section 9 of this Agreement.
- h. **Service Contract.** 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 shall 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.
- i. **No Partnership.** No provision of this Agreement may be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither may be considered the agent of the other.
- j. **Entire Agreement, Modification, Invalidity, Captions.** This Agreement constitutes the entire agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such provision shall not be read to render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be rectified or interpreted so as to best accomplish its objectives within the limits of applicable law.
- k. **Forward Contract.** The transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.
- l. **No Third-Party Beneficiaries.** Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto, and the Financing Parties to the extent provided herein or in any other agreement between a Financing Party and Seller or Purchaser, and do not imply or create any rights on the part of, or obligations to, any other person.
- m. **Counterparts.** This Agreement may be executed in any number of separate counterparts and each counterpart will be considered an original and together comprise the same Agreement.
- n. **Laws and Regulations.** Seller shall keep itself fully informed of all laws, ordinances, codes, rules and regulations, governmental general and development plans, setback limitations, rights of way and all changes thereto, which in any manner affect this Agreement and all performance thereof.
- o. **Requisite Standards.** The Systems shall be installed with due care by qualified Seller' Agents and shall conform to applicable industry standards and practices, applicable law, and this Agreement. If Seller fails to meet any of the foregoing standards, Seller shall perform at its own cost, and without additional charge to Purchaser, the professional services necessary to correct errors and omissions, including any necessary replacement of the Systems, that are caused by Seller's failure to comply with the above standards so that the Systems are capable of energy services at a

reasonably continuous rate.

- p. **Amendments.** This Agreement shall not be amended, modified, or supplemented without the written agreement of Seller and Purchaser at the time of such amendment, modification, or supplement.
- q. **Utility Rate True-Up Clause** In order to assure Purchaser will not pay more for solar energy procured under this Agreement than it would have paid if it acquired the same amount of energy from the Utility, Seller agrees that during the first or second 10-year period following the Commercial Operation Date, if Purchaser has paid Seller more for energy provided under this Agreement than it would have paid the Utility for the same amount of energy during the same period, Seller will provide Purchaser at no charge with energy from the System equitable to the amount that Purchaser paid under this Agreement. The amount of energy to be supplied at no charge to Purchaser shall be calculated as follows:

$kWh_U = \text{total energy delivered from the utility over a specified time period (one year)}$

$kWh_S = \text{total energy delivered from the Solar PPA over a specified time period (one year)}$

$\$/kWh_U = \text{all in kWh rate from the Utility, calculated as total bill divided by total delivered kWh from the Utility over a specified time period (one year)}$

$\$/kWh_S = \text{all in kWh rate from the Solar PPA, calculated as total bill divided by total delivered kWh from the Solar PPA over a specified time period (one year)}$

$\text{Annual Rate Differential} = (\$/kWh_S - \$/kWh_U)$

$\text{Annual Amount Differential} = (\text{Annual Rate Differential} \times kWh_S)$

$\text{Total True Up Differential} = \sum (\text{Annual Amount Differential over applicable 10 - year period})$

If the Total True-Up Differential is positive (Contract Price charges exceeded the cost of buying the same amount of energy from the Utility), then the Total True-Up kWh Differential will be divided by the Contract Price in effect at the end of such 10-year period to determine the "Total True-Up Energy" in kWh.

*if Total True Up Differential > 0, then reconciliation as described below; otherwise nothing is done under this section*

$\text{Total True Up Energy} = \text{Total True Up Differential} \div \text{Contract Price}$

Seller will then provide Purchaser with the Total True-Up Energy from System at no charge beginning immediately upon determination of the amount of said Total True-Up Energy.

If the Total True-Up Differential for the initial 10 year period is negative, then savings for the first 10 year period will be included in the determination of savings for the second 10 year period, thereby reducing any Total True Up Differential for the second 10 year period.

If Seller owes Purchaser Total True-Up Energy during the initial 10 year period, the same amount of time will be added to the duration of the Initial Term of this Agreement. If Seller owes Purchaser Total True-Up Energy during the second 10 year period, the same amount of time will be added to the Initial Term of this Agreement. This Utility Rate True-Up shall be payable only in Energy from the System, and not in cash. This Utility Rate True-Up clause shall not apply to Utility rates that fall below the Initial Rate of this Agreement.

End of Exhibit 3

Exhibit 4

HECO Customer Authorization and Acknowledgement Form



**Hawaiian  
Electric**

**CUSTOMER AUTHORIZATION &  
ACKNOWLEDGEMENT FORM**

**CUSTOMER-GENERATOR/PROPERTY OWNER\***

Name:	Meter #:
<b>County of Maui</b>	<b>See attached sites</b>
Agreement ID#: <i>(if available)</i>	TMK:
Phone #:	<b>See attached sites</b>
<b>8082707845</b>	
Service Address:	
<b>See attached sites</b>	

Authorized Contractor Company Name:

**Johnson Controls, Inc.**

**GRANT OF AUTHORITY**

I hereby appoint and authorize the contractor listed above to act on my behalf in all manners relating to my Distributed Energy Resources (DER) application, including but not limited to, the authority to (i) request, access and receive directly from Hawaiian Electric, on my behalf, all information and documentation relating to my proposed project, and (ii) make decisions and execute agreements, if required, regarding the proposed project.

This Grant of Authority shall remain in effect until Hawaiian Electric's receipt of written termination of such Grant of Authority by Customer, or Customer's resubmittal of an updated Grant of Authority.

I acknowledge that this authorization is granted for the sole purpose of my application, and for managing questions related to the system post-installation. Utility service outside of the PV system is not included, unless said information directly affects processing of my application. I understand that a new form must be submitted if I change my installing contractor.

I/We authorize submission of this Authorization in its original form assigned by me/us or by other means intended to preserve the original graphic and pictorial appearance of the signature(s), such as a photocopy or PDF scan. Such a copy or scan of my/our signature(s) shall be considered an "original" for purposes of this Authorization and Hawaiian Electric may rely upon such submission for all purposes expressed above.

*Please read the additional acknowledgements on the following page and be sure to provide your signature.*

Please upload this form online to your application record or send/mail it to the applicable address below:

<b>O'ahu (MAIL OR EMAIL)</b>		<b>Maui County (MAIL OR EMAIL)</b>	<b>Hawai'i Island (MAIL OR EMAIL)</b>
Customer Grid Supply (CGS)/ Customer Self Supply (CSS)	Standard Interconnection Agreement (SIA)	All Programs	All programs except Standard Interconnection Agreement (SIA)
Hawaiian Electric Distributed Energy Resources P.O. Box 2750, AT10-SE Honolulu, HI 96840	Hawaiian Electric Attn: SIA; AT10-SE P.O. Box 2750 Honolulu, HI 96840	Hawaiian Electric Renewable Projects P.O. Box 398 Kahului, HI 96733	Hawaiian Electric Renewable Projects P.O. Box 398 Kahului, HI 96733
<a href="mailto:connect@HawaiianElectric.com">connect@HawaiianElectric.com</a>	<a href="mailto:SIAinfo@HawaiianElectric.com">SIAinfo@HawaiianElectric.com</a>	<a href="mailto:connectmaui@HawaiianElectric.com">connectmaui@HawaiianElectric.com</a>	<a href="mailto:connecthawaii@HawaiianElectric.com">connecthawaii@HawaiianElectric.com</a>



Hawaiian Electric

# CUSTOMER AUTHORIZATION & ACKNOWLEDGEMENT FORM

## ACKNOWLEDGEMENTS

By signing this form, I agree to the foregoing Grant of Authority and the following:

- ❖ The existing meter socket is in sound operating condition, or that it will be by the time permission to operate the proposed system is granted, and I understand that I am responsible for any upgrades necessary to meet current code requirements.
- ❖ I understand that proof of insurance may be required prior to execution of the program agreement (see the appropriate program's Rule or Tariff for specific requirements).
- ❖ I agree not to interconnect and operate this proposed system without prior written approval from Hawaiian Electric; provided however, that, if my proposed system is no more than 100 kW, I may energize my system once a meter is installed, my electrical inspection is closed, and Volt-Watt is activated.
- ❖ The inverters used for this system will be compliant with all of Hawaiian Electric's current requirements and understand that proof of compliance with these requirements will be necessary prior to the execution of the program agreement.
- ❖ (1) The distributed generation facility shall meet Hawaiian Electric's Interconnection Standards stated in Appendix I: Distributed Generating Facility Interconnection Standard Technical Requirement of Rule 14; (2) the specific characteristics or needs of each distributed generating facility may change its interconnection requirements; and, therefore, (3) the distributed generation facility may be subject to additional interconnection requirements that are necessitated by the results of the technical review process.
- ❖ As the Technical Review of the proposed system may require a no-cost Supplemental Review, I pre-authorize a Supplemental Review.
- ❖ I authorize Hawaiian Electric to post the following information on its website, in an area designated for customer contractors, for a period not to exceed 90 days: (1) my service address and (2) the date my net meter was replaced by Hawaiian Electric.

Customer-Generator/Property Owner\* Signature

Date

*Keoni Brown*

1-27-2023

\* The Customer-Generator/Property Owner printed name must be identical to that person or of the entity listed on the Distributed Energy Resources application; the Customer-Generator/Property Owner's signature also must be that of the same person who will be signing the final agreement.