

**PHILADELPHIA GREEN CAPITAL CORP.**

**SOLAR FOR ALL PROGRAM**

**SOLAR FOR ALL FINANCIAL PROVIDER**

**SERVICE AGREEMENT**

**between**

**PHILADELPHIA GREEN CAPITAL CORP.**

**and**

**[FINANCIAL PROVIDER]**

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## FINANCIAL PROVIDER SERVICE AGREEMENT

This Financial Provider Service Agreement (this Agreement) is entered into as of [REDACTED], 2025 by Philadelphia Green Capital Corp. (PGCC), a Pennsylvania non-profit corporation, and [Financial Provider], a [REDACTED] (the **Financial Provider**).

### Background

A. PGCC is qualified as a 501(c)(3) charitable organization to make and facilitate program-related investments for environmental action, lessening the burdens of government and promoting social welfare purposes under section 501(c)(3) of the Internal Revenue Code. PGCC works with its affiliate, the Philadelphia Energy Authority (**PEA**) to support PEA's Solarize Philly program, which has supported the installation of solar systems for over 3,700 homeowners in Philadelphia.

B. PEA is a Pennsylvania municipal authority that seeks systemic solutions to the City of Philadelphia's energy challenges and prioritizes projects and programs that support low- and moderate-income customers and will result in local job creation. PEA will provide administrative services to PGCC in connection with the SFA Program (as defined below).

C. Financial Provider is [REDACTED].

D. PGCC is a named subrecipient under the Pennsylvania Energy Development Authority (**PEDA**) Solar for All (**SFA**) grant. Solar for All is a program funded by the Greenhouse Gas Reduction Fund of the Inflation Reduction Act (**IRA**) (Public Law No. 117-169) and administered by the U.S. Environmental Protection Agency (**EPA**). The SFA program funds new and existing low-income solar programs, enabling households in low-income and disadvantaged communities (each an **Eligible Customer**) to benefit from distributed solar energy. The SFA grant will be in effect through August 31, 2029, which is five years from the commencement of the performance period under the award agreement between the EPA and PEDA.

E. PGCC will build upon PEA's existing Solarize Philly program by launching Solarize Greater Philadelphia (**SGP**) which will operate in the Pennsylvania counties of Philadelphia, Chester, Bucks, Montgomery, and Delaware (**Southeastern PA**). PGCC will use SFA funds to subsidize certain third-party-owned Power Purchase Agreements (as more fully described below, **PPAs**) for Eligible Customers within Southeastern PA. This subsidized program under SGP is known as Solar for All (**SFA Program**).

F. Under the SFA Program, a solar installer qualified by PGCC and PEA (**Installer**) will identify prospective customers, and with assistance from PGCC and Financial Providers, qualify them for participation in the SFA program, and offer them proposals (**Proposals**) for fixed price

installation contracts (each an **Installation Contract**) for residential solar systems (each a **Project**). A Project may include (with PGCC Approval) installation of a battery storage system (**Battery Storage**) and, if needed, electrical system upgrades and roof repairs (**Enabling Upgrades**) to support installation of the system. Pricing for Installation Contracts will be based on predetermined installation prices determined as a part of the qualification process for installers.

G. A Financial Provider will evaluate Proposals made by Installers. If the Financial Provider approves a Project, it will offer the Eligible Customer a solar Power Purchase Agreement (**PPA**), in which it agrees to assume the Eligible Customer's financial obligations under the Installation Contract, and the Eligible Customer assigns title to the project to the Financial Provider and agrees to purchase the entire output of the Project for fixed monthly payments (which may escalate annually).

H. Under the SFA Program, PGCC will pay to the Financial Provider certain incentive payments for each approved project that are intended to cover the costs of including Battery Storage and Enabling Upgrades in the Project (if included) and reduce the monthly payment under the PPA so that the Eligible Customer's total annual electricity bill is reduced by at least twenty percent.

I. As part of the SFA Program, PGCC selected Financial Provider pursuant to an RFP dated [REDACTED] (the **Financial Provider RFP**), to provide PPA financing to Eligible Customers for Projects as more fully described herein.

## **Agreements**

In consideration of the Background and the mutual covenants, undertakings and conditions set forth below, the parties, intending to be legally bound, agree as follows:

### **ARTICLE 1 DEFINITIONS; CONVENTIONS**

**1.1. Definitions.** Unless otherwise expressly provided in this Agreement:

**Approved Installation Price** is defined in Section 5.2(a).

**Approved Project** is defined in Section 3.1.

**Assignment and Acknowledgement** is defined in Section 7.1.

**Base Solar Price** is defined in Section 4.2(a).

**Battery Storage** is defined in Paragraph F of the Background.

**CEIC** means the Clean Electricity Investment Credit authorized in 26 U.S.C § 48E.

**Change Order** is defined in Section 7.4.

**Customer** means an Eligible Customer who has entered into a PPA with the Financial Provider.

**Domestic Content CEIC Adder** means the additional level of CEIC under 26 U.S.C § 48E(a)(3)(B) for projects that comply with domestic content requirements of the IRA.

**Effective Date** is defined in Section 2.1.

**Eligible Customer** is defined in Paragraph D of the Background.

**Eligible Equipment** is defined in Section 3.2(a).

**Enabling Upgrade Payment** is defined in Section 6.4.

**Enabling Upgrade Price** is defined in Section 4.3(d).

**Enabling Upgrades** is defined in Paragraph F of the Background.

**Energy Community CEIC Adder** means the additional level of CEIC available under 26 U.S.C § 48E(a)(3)(A) for projects sited in any area designated as an “energy community” under 26 U.S.C § 45(b)(11)(B).

**Expected Annual Production** is defined in Section 4.1(c)(iv).

**Extension Term** is defined in Section 2.1.

**Financial Provider** is defined in the Preamble.

**Financial Provider RFP** is defined in Paragraph I of the Background.

**Force Majeure Event** is defined in Section 8.88.8(a).

**Foreign Entity of Concern** is defined as an entity owned by, controlled by, headquartered in, or subject to the direction of a government of a covered nation under 10 USC 4872(d), or a subsidiary of such an entity. As of the date of the SFA Terms and Conditions, covered nations under 10 USC 4872(d) are the Democratic People’s Republic of North Korea, the People’s Republic of China, the Russian Federation, and the Islamic Republic of Iran.

**Incentive Payments** is defined in Section 6.2(b).

**Initial Term** is defined in Section 2.1.

**Installation Adders** is defined in Section 4.2(b).

**Installation Contract** is defined in Paragraph F of the Background.

**Installer Documents** means the Proposal as revised in response to Financial Provider and PGCC Review, the final, fully executed Installation Contract, the fully executed Assignment and Acknowledgement, a copy of the permission to operate issued by the utility upon its inspection of the completed Project, and any other documents required by the Program Manual.

**Installer** is defined in Paragraph F of the Background.

**IRA** is defined in Paragraph D of the Background.

**Low Income Community CEIC Adder** means the additional level of CEIC available under 26 U.S.C. § 48E(h).

**Net Installation Cost** is defined in Section 5.2(a).

**Operating Year** means a calendar year beginning on the date that a Project is Placed in Service and each anniversary of that date during the Term and ending on the day before the next anniversary of that date.

**PEA** is defined in Paragraph A of the Background.

**PEDA** is defined in Paragraph D of the Background.

**Person** means any individual, partnership, corporation, association, business, trust, government or political subdivision thereof, governmental agency or other entity.

**PGCC** is defined in the Preamble.

**Placed in Service** with respect to a Project means that the Project has been interconnected to the utility distribution system, has received utility permission to operate, and has met any other requirements to deliver power to the grid.

**PPA** is defined in Paragraph G of the Background.

**PPA Payment** is defined in Section 5.2(a).

**PPA Pricing Model** is defined in Section 3.2(d).

**Pre-Incentive Net Installation Cost** is defined in Section 5.2(b).

**Pre-Incentive PPA Payment** is defined in Section 5.2(b).

**Present Value** means the value of expected future payment(s) determined as of the date of valuation, by discounting by an interest rate reflecting the cost of funds to the payee.

**Program Manual** is defined in Section 3.2(a).

**Project Completion** is defined in Section 7.6.

**Project** is defined in Paragraph F of the Background.

**Project Scope** is defined in Section 4.1(c)(ii).

**Proposal** is defined in Section 4.1(c).

**Proposed Battery Storage Price** is defined in Section 4.4.

**Proposed Enabling Upgrade Price** is defined in Section 4.3(a).

**Proposed Installation Price** is defined in Section 4.1(c)(iii).

**Proposed Solar Price** is defined in Section 4.2(c).

**Purchased Rights** is defined in Section 6.3(a).

**Quality Control Contractor (QC Contractor)** is a third-party hired by PGCC to act as a representative for the Eligible Customer and will assist PGCC in determining compliance by the Installers with the requirements of their Installation Contracts for the installation of the Project by conducting random inspections of completed Projects as set forth in Section 7.5.

**Required Customer Disclosures** is defined in Section 3.2(b).

**Sanctioned Person** is defined as (a) any Person identified on any list of designated Persons maintained by any Sanctions Authority, (b) any Person located, organized or resident in a Sanctioned Country (c) any Person owned fifty percent or more by any such Person or Persons described in the foregoing clauses (a) or (b), or (d) any Person that is otherwise the subject to target of any Sanctions. Person may refer to an individual, company, organization, or government agency.

**SFA Program** is defined in Paragraph E of the Background.

**Site** is defined in Section 4.1(c)(ii).

**Site Lease** is defined in Section 3.2(c).

**Solar Incentive Payment Calculator** is defined in Section 6.5(b)

**Solar Incentive Payment** is defined in Section 6.5(a).

**Solarize Greater Philadelphia (SGP)** is defined in Paragraph E of the Background.

**Southeastern PA** is defined in Paragraph E of the Background.

**SREC** means an alternative energy credit produced by a solar generation facility that meets the registration requirements for the Tier I solar photovoltaic share in accordance with the Pennsylvania Alternative Energy Portfolio Standards Act, 73 P.S. §1648.1 *et seq.*, or any superseding standard or program applicable in Pennsylvania.



**SREC Purchase Payment** is defined in Section 6.3(b).

**SSI<sub>1</sub>** is defined in Section 6.5(b).

**Standard CEIC** means the standard 30 percent CEIC authorized in 26 U.S.C § 48E(a)(2)(A)(ii)(I).

**Standard Solar Incentive** is defined in Section 6.5(b).

**State** means the Commonwealth of Pennsylvania.

**Supplemental Solar Incentive** is defined in Section 6.5(c).

**Term** is defined in Section 2.1.

**1.2. Conventions.** Unless otherwise expressly provided in this Agreement:

- (a) references to Persons include their successors and permitted assigns;
- (b) the term “include,” “includes” or “including” means, include, includes or including without limitation (as the case may be);
- (c) references to the Articles, Sections, and Exhibits mean the articles and sections of this Agreement;
- (d) references to this Agreement means this Agreement including all Exhibits;
- (e) the term “day” means a calendar day and includes Saturdays, Sundays and holidays, except that, if any obligation for the payment of money under this Agreement falls due on a Saturday, Sunday or a holiday on which State banks are not open for business, the payment will be due on the next business day thereafter;
- (f) all references to a statute, regulation, law, agreement or instrument mean such statute, regulation, law, agreement or instrument as it may be amended, amended and restated or supplemented from time to time, including (in the case of statutes, regulations or laws) by successor statutes, regulations or laws and (in the case of agreements or instruments) by waiver or consent;
- (g) references to a party means a party to this Agreement;
- (h) a reference to a governmental agency, department, board, commission or other public body or to a public officer includes an entity or officer that or who succeeds to or performs substantially the same functions as those performed by such governmental agency, authority, department, board, commission or other public body or to a public officer; and
- (i) terms defined in the singular have the corresponding plural meaning when used in the plural, and terms defined in the plural have the corresponding singular meaning when used in the singular.

## ARTICLE 2 TERM

**2.1. Term.** This Agreement takes effect on [REDACTED] (the **Effective Date**) and continues for a term of two years (the **Initial Term**), unless extended. PGCC may extend this agreement for up to three additional one-year terms (each an **Extension Term**). The Initial Term together with any Extension Terms are together referred to as the “**Term**”.

## ARTICLE 3 THE PROGRAM

**3.1. Roles of the Parties.** PGCC will have the primary responsibility for implementing the Program and will make Incentive Payments to Financial Provider for Projects that receive its approval (each, an **Approved Project**) to allow Financial Provider to reduce the prices charged to Customers under their PPAs. The Financial Provider will enter into PPAs with Eligible Customers based on Proposals prepared by Installers. The Financial Provider acknowledges that for each of its Approved Projects, the Financial Provider shall advance all amounts due for the development and installation of the Project under the Installation Contract in accordance with the terms of the applicable PPA and Installation Contract, and shall receive only the specific Incentive Payments provided for in this Agreement.

### **3.2. Preliminary Obligations.**

(a) Upon selection, the Financial Provider will assist PGCC with the preparation of a detailed program manual (the **Program Manual**) outlining the procedures to be followed by Eligible Customers, Installers, the Financial Provider, PGCC and PEA in carrying out the Program, standards for eligibility, limitations on Incentive Payments, types of equipment eligible for inclusion in Projects (**Eligible Equipment**), a flow chart depicting the SFA Program Project approval cycle, and other matters useful for the administration of the Program. PGCC may amend the Program Manual from time to time in consultation with the Financial Provider. PGCC at all times, retains sole discretion with respect to the final content of the Program Manual.

(b) Financial Provider will develop the form of required disclosures to Eligible Customers (**Required Customer Disclosures**) based on the requirements set forth in Exhibit A (Required Customer Disclosures) and subject to PGCC’s approval.

(c) Financial Provider will develop a final form of PPA for PGCC’s approval consistent with the terms set forth in Exhibit B (Required PPA Terms) and including or attaching the terms of a lease of the Site (the **Site Lease**) for at least the full term of the PPA.

(d) Financial Provider will work with PGCC to determine the final model for PPA pricing to be offered to Eligible Customers (the **PPA Pricing Model**) based on the model supplied by Financial Provider in its response to the Financial Provider RFP which is attached as Exhibit C (Proposed Pricing Model).

(e) Financial Provider will support Installer selection through PGCC's RFQ prior to program launch and refinement of the selection process as needed during the Term.

**3.3. Outreach.** Installers, along with PGCC and PEA, will conduct an outreach program to Eligible Customers. After selecting an Installer, an Eligible Customer will undertake a Project, and their selected Installer will refer the Eligible Customer to the Financial Provider as a potential source of funding. PGCC will provide periodic updates to Financial Provider on the status of its outreach efforts. PGCC makes no representations about the number of Projects that will be undertaken. Financial Providers are expected to support PGCC, PEA, and Installers in outreach and marketing.

**3.4. Allocation of Customers.** [Financial Provider will be one of several providers of Project financing for the Program during the Term of this Agreement.] Installers will do the primary outreach to Eligible Customers. [The process for assigning Financial Provider to Installers and Eligible Customers who enter the program will be set forth in the Program Manual.]

**3.5. Contract Limit.** PGCC's aggregate Incentive Payments to Financial Provider under this agreement may not exceed \$\_\_\_\_\_ unless parties agree to expand the limit and SFA funding is available.

#### **ARTICLE 4 PROPOSALS AND INSTALLATION PRICE**

**4.1. Proposals.** For each Eligible Customer that requests a solar installation through the SFA Program, the Installer will:

(a) Satisfy itself as to the Eligible Customer's probable qualification for the program, as further described in the Program Manual;

(b) Evaluate the Eligible Customer's property for a potential solar installation;  
and

(c) If it believes that the Eligible Customer is a good candidate for the SFA Program, the Installer will prepare a proposal (each a **Proposal**), including the following information:

(i) the Required Customer Disclosures (based on the proposed terms in the Proposal), including the estimated PPA Payment;

(ii) a proposed scope of work (**Project Scope**), including the size of the Project and the location on the Eligible Customer's property (the **Site**) of the solar system, whether Battery Storage is included, whether Enabling Upgrades will be required, and whether there are other complicating installation factors requiring Installation Adders;

(iii) the “**Proposed Installation Price**”, which is equal to the sum of the Proposed Solar Price, the Proposed Enabling Upgrade Price, and the Proposed Battery Storage Price, as a single sum and broken down into those components as described in Sections 4.2 through 4.4; and

(iv) an Installation Contract in the form [approved/supplied] by PGCC including the (A) the Project Scope, (B) the Proposed Installation Price (C) and a guarantee of performance based on estimated annual levels of electric generation (**Expected Annual Production**). The Installation Contract will also provide Site access for the Installer during installation.

#### 4.2. Proposed Solar Price.

(a) Installers will provide a fixed price (the **Base Solar Price**) for the solar PV installation of each Project based on the price per kW of system capacity in the size ranges set forth in the following table:

| <b>kW Size Range</b> | <b>Price per kW</b> |
|----------------------|---------------------|
| <3 kW                |                     |
| 3kW-6kW              |                     |
| 6kW-10kW             |                     |
| >10kW                |                     |

PGCC will update this pricing table periodically by giving notice to Financial Provider and Installers.

(b) Installers may propose installation adders based on unusual and difficult Site conditions, such steep roofs (**Installation Adders**).

(c) The “**Proposed Solar Price**” is equal to the Base Solar Price plus any Installation Adders.

#### 4.3. Enabling Upgrades.

(a) Installers may propose Enabling Upgrades in cases in which a Project cannot be safely installed without upgrades to the Eligible Customer’s property. To qualify for the Enabling Upgrades above, the Installer must demonstrate they are necessary to properly install and maintain the PV system for at least the full operating period specified in the PPA. Installers must propose a fixed price for those upgrades (the **Proposed Enabling Upgrade Price**).

(b) The following are eligible Enabling Upgrades:

- (i) Electrical panel upgrades can be proposed if they are required for the safe and efficient installation and maintenance of a PV system; and
- (ii) Structural/roof repairs can be proposed for roofs with structural defects that otherwise preclude safe solar installations.
- (iii) Other upgrades identified as Enabling Upgrades in the Program Manual.

(c) Enabling Upgrades amounts per Project will be limited as provided in the Program Manual.

(d) When requesting Financial Provider and PGCC approval for Enabling Upgrades, Installers must provide documentation that includes (i) why the Enabling Upgrades are necessary for the Project, (ii) a justification of cost reasonableness for the upgrades, and (iii) photos of the repair site(s). Installers must provide a fixed-price proposal for the Enabling Upgrades work to the Financial Provider when requesting approval for Enabling Upgrades. PGCC will not reimburse costs on a time-and-materials basis. The Proposed Enabling Upgrade Price as approved by PGCC and the Financial Provider, with any modifications, is the “**Enabling Upgrade Price.**”

**4.4. Battery Storage.** Installers may only provide Battery Storage in conjunction with an SFA-funded solar installation, and only if the Eligible Customer meets the criteria specified in the Program Manual. Battery Storage must be installed with a suitable microgrid controller and switchgear (or similar equipment) to allow the battery to power the residence during a grid outage. Installers will provide a fixed price (the **Proposed Battery Storage Price**) for the installation of Battery Storage in a Project based on the price per kWh of Battery Storage capacity in the size ranges set forth in the following table. PGCC will update this pricing table periodically by giving notice to Financial Provider and Installers.

| kWh Size Range | Price per kWh |
|----------------|---------------|
|                |               |
|                |               |
|                |               |
|                |               |

**4.5. Eligible Customer Acceptance.** If the Eligible Customer approves the Proposal, the Eligible Customer and the Installer will sign the Installation Contract, and the Installer will submit the Installation Contract to the Financial Provider for review. The Installation Contract is conditioned on final approval of the Financial Provider and PGCC, and on Eligible Customer approval of final PPA Payment, and work on the installation of a Project shall not commence until such approvals have been given, unless the Eligible Customer and the Installer agree on an alternative method of financing.

**ARTICLE 5**  
**FINANCIAL PROVIDER REVIEW AND THE PPA PAYMENT**

**5.1. Proposal Review.** The Financial Provider will promptly review each Proposal accompanied by a signed Installation Contract from an Installer. Financial Provider will:

(a) verify income for certain Eligible Customers in accordance with the the Program Manual credit review;

(b) review Eligible Customer credit following the underwriting process submitted in its response to the Financial Provider RFP and consistent with the terms set forth in Exhibit D (Underwriting Terms);

(c) review the Project Scope for completeness, to verify the need for Enabling Upgrades, and to ensure that the Project meets the requirements for Eligible Equipment specified in the Program Manual; and

(d) review the accuracy of Installer’s calculations of the Proposed Installation Price, including the reasonableness of the pricing for any Proposed Enabling Upgrade Price and that pricing for Enabling Upgrades do not exceed limits established in the Program Manual.

If, upon concluding its review, the Financial Provider wishes to offer a PPA to the Eligible Customer, it will calculate a Pre-Incentive PPA Payment as described in Section 5.2(b), and will submit the Proposal to PGCC identifying Incentive Payments for which it believes the Project is eligible.

**5.2. PPA Payment and Pre-Incentive PPA Payment.**

(a) The Customer will make an annual payment for the electrical output of the Project under the PPA (the **PPA Payment**), which shall be paid in 12 equal monthly installments and may escalate annually based on a fixed percentage. It will be calculated using the Financial Provider’s approved PPA Pricing Model based on the “**Net Installation Cost**” which is equal to the Proposed Installation Price as it may be adjusted pursuant to Financial Provider and PGCC review and any Change Orders (the **Approved Installation Price**), reduced by (i) the CEIC Reductions described in Section 5.3, (ii) the SREC Purchase Payment, the Enabling Upgrade Payment, and the Solar Incentive Payment from PGCC as each is described in Article 6.

(b) For purposes of submitting a Proposal to PGCC for its approval, the Financial Provider shall provide PGCC with a calculation of a payment (the **Pre-Incentive PPA Payment**) using the Financial Provider’s Proposed Pricing Model based on the Proposed Installation Price reduced by (i) any modifications to the Proposed Installation Price suggested by the Financial Provider, (ii) the CEIC Reductions described in Section 5.3, and (iii) the SREC Purchase Payment and the Enabling Upgrade Payment (in other words, the PPA Payment calculated without deducting any PGCC modifications to the Proposed Installation Price or the Solar Incentive Payment) (the **Pre-Incentive Net Installation Cost**), as each is described in Article 6. It will also identify the Solar

Incentive Payment for which it believes the Project should be eligible and the expected resulting PPA Payment demonstrating the required level of expected savings.

**5.3. CEIC Reductions.** For purposes of calculating the Net Installation Cost for a Project, the amount of the Proposed Installation Price used to calculate the Pre-Incentive PPA Payment and the PPA Payment will be reduced by each of the following as applicable:

(a) The Present Value of the Standard CEIC and, where applicable, the Energy Community CEIC Adder available to the Financial Provider as a result of its ownership of the Project.

(b) The Present Value of the Low Income Community CEIC Adder, which the Financial Provider must apply for if the Project is eligible, that is available to the Financial Provider as a result of its ownership of the Project; provided that if the Financial Provider applies for the Low Income Community CEIC Adder and its application is later denied, PGCC will pay to the Financial Provider the amount by which the Proposed Installation Price was initially reduced pursuant to this Section 5.3(b).

(c) The Present Value of the Domestic Content CEIC Adder, if applied for, that is available to the Financial Provider as a result of its ownership of the Project.

For the avoidance of doubt, if portions of the Proposed Installation Price are not eligible for CEIC, the calculation of CEIC for purposes of this Section 5.3 will exclude those portions. In the event that the CEIC credit amounts are altered by legislation enacted subsequent to the execution of this Agreement, the Parties will negotiate in good faith to revise the Agreement as necessary to continue the Program while making effective use of remaining SFA funds.

**5.4. PPA Loss Reserve.** PGCC may establish a reserve fund (the Customer Support Reserve) to support Customers experiencing difficulties making payments under their PPAs. If PGCC establishes a Customer Support Reserve, Financial Provider will provide PGCC with [15] day's notice of any PPA it intends to terminate for failure to make payments to give PGCC the opportunity to cure the payment default.

**5.5. Additional Funding.** Financial Provider may elect to fund additional improvements to an Eligible Customer's residence; provided that such funding may not increase the amount of the Solar Incentive Payment for the Eligible Customer's Project without the consent of PGCC. PGCC may determine that additional forms of Incentive Payments are appropriate. In either event, the Program Manual will be amended to reflect the change.

**ARTICLE 6**  
**PGCC REVIEW; PGCC PAYMENTS; FINAL PPA PRICING**

**6.1. PGCC Review.** PGCC will review each Proposal submitted by Financial Provider, will verify the Project's eligibility for Incentive Payments, and will calculate Incentive Payments required to reduce the Pre-Incentive PPA Payment so that the Customer's overall annualized electric energy utility bill is reduced by at least 20 percent in accordance with this Article 6.

**6.2. PGCC Incentive Payments.**

(a) For each Approved Project, PGCC will pay to Financial Provider:

- (i) an SREC Purchase Payment;
- (ii) an Enabling Upgrade Payment, if applicable; and
- (iii) a Solar Incentive Payment, if applicable.

(b) Financial Provider must submit an invoice with a unique invoice number for the SREC Purchase Payment together with the Enabling Upgrade Payment and the Solar Incentive Payment, if any, (collectively, the **Incentive Payments**) for each Project promptly upon Project Completion. PGCC shall list Financial Provider's unique invoice number on its ACH remittance advice to enable Financial Provider to properly apply PGCC's payment to the respective invoice and project.

(c) Financial Provider shall provide PGCC with accurate ACH payment information. Financial Provider's failure to maintain accurate and complete payment information may result in delays in payments.

(d) PGCC will pay Financial Provider the Incentive Payments in a lump sum within 60 days following Project Completion for such Project.

**6.3. SREC Purchase.**

a. The Financial Provider hereby agrees to sell to PGCC and PGCC hereby agrees to purchase all SRECs and all other Environmental Attributes (together, the **Purchased Rights**) to which the Financial Provider is or may be entitled as the owner and operator of each Project from the date that the Project is Placed in Service until the [seventh] anniversary of that date.



b. The aggregate purchase price for the Purchased Rights from a Project (the **SREC Purchase Payment**) is equal to the SREC Price multiplied by the Expected Annual Production for the first **[seven]** years following the date that the Project is Placed in Service, payable to the Financial Provider by PGCC pursuant to Section 6.2. The “**SREC Price**” is initially \$ \_\_\_\_\_, but may be reset from time to time by PGCC.

c. The Financial Provider agrees to register the Purchased Rights and all metering data with the PJM Generation Attributes Tracking System or any successor or alternative registry and take such other actions as may be necessary to qualify them for the Pennsylvania Alternative Energy Portfolio Standard. This includes delivery of any other information required for such registration and execution and delivery of any documents needed to facilitate such registration. The Financial Provider agrees to transfer the Purchased Rights to PGCC on a semi-annual basis. The Financial Provider further agrees to provide PGCC with all metering data from the Projects to establish entitlement to the SRECs.

d. The Financial Provider represents and agrees that it has not and will not enter into any agreement or other arrangement that purports to transfer or encumber or impose a lien on ownership of any SREC or Environmental Attribute produced or to be produced by the Projects with or for the benefit of any other person. If Financial Provider fails to deliver any SRECs or Environmental Attributes to PGCC free and clear of any liens, the Financial Provider will repay to PGCC an amount equal to the purchase price for SRECs set forth above multiplied by a fraction (i) the numerator of which is the Purchased Rights not delivered and (ii) the denominator of which is the expected deliveries of Purchased Rights over the life of this Agreement.

**6.4. The Enabling Upgrade Payment.** The “**Enabling Upgrade Payment**” is equal to the final, approved Enabling Upgrade Price.

**6.5. Solar Incentive Payment.**

(a) The “**Solar Incentive Payment**” is equal to the Standard Solar Incentive plus the Supplemental Solar Incentive, if any, as described below.

(b) PGCC will use the model (the **Solar Incentive Payment Calculator**) attached as Exhibit E (Solar Incentive Payment Calculator) and the data submitted by the Installer in the Proposal (described in Section 4.1), particularly the Pre-Incentive PPA Payment amount, to calculate the funding amount needed to reduce the Pre-Incentive PPA Payment so that the customer’s overall annualized electric energy utility bill is reduced by at least 20 percent, which will constitute the “**Standard Solar Incentive**”.

The Standard Solar Incentive for the first Operating Year (**SSI<sub>1</sub>**) is calculated as:

$$\text{SSI}_1 = \text{Year One Pre-Incentive PPA Payment} + \text{Year One Estimated Utility Bill} - (0.8 \times \text{Prior Year Full Utility Bill}),$$

but not less than zero.

Where:

Year One Pre-Incentive PPA Payment is the Pre-Incentive PPA Payment for the first Operating Year.

Year One Estimated Utility Bill = [(Prior Year Utility Usage – Year One Expected Annual Production) x Year One Utility Standard Offer Rate] + Year One Utility Fixed Charges.

Year One Expected Annual Production = Expected Annual Production for the first Operating Year.

Year One Utility Standard Offer Rate = The Utility Standard Offer Rate in effect at the beginning of the first Operating Year.

Year One Utility Fixed Charges = the monthly fixed charge in effect at the beginning of the first Operating Year, multiplied by 12.

Prior Year Full Utility Bill = The lower of (i) the amount paid by Customer for its full electricity usage for the prior year (based on data submitted to the Installer during the Proposal process described in Section 4.1) (whether the customer purchases electricity from the utility or from an electric generation supplier) and (ii) the amount the customer would have paid for its full electricity usage if it purchased electricity from the utility at its standard offer rate. Both (i) and (ii) are inclusive of all fixed charges.

Prior Year Utility Usage = The amount of the Customer's prior year electricity consumption in KWh.

The Standard Solar Incentive for succeeding years will be calculated by adjusting the **SSI<sub>1</sub>** for the expected annual escalation of the utility tariff, the annual price escalation of the PPA Payment, if any, and annual degradation of Expected Annual Production.

The full Standard Solar Incentive payable to Financial Provider is the Present Value of the stream of annual Standard Solar Incentives over the entire PPA term using a discount rate based on the expected long-term value of the PPA interest rate proposals submitted to PGCC through its Financial Provider RFP process.

(c) PGCC may also provide a “**Supplemental Solar Incentive**” to reduce the PPA Payments to as low as zero dollars per month for Eligible Customers that meet certain requirements as further described in the Program Manual (such as household income or participation in a complementary home-repair program). For a Supplemental Solar Incentive, PGCC will provide a larger incentive payment to achieve this goal. As with the Standard Solar Incentive, the Supplemental Solar Incentive will be the net present value of the annual Supplemental Solar Incentives required to buy down the PPA to as low as \$0/month.

## **ARTICLE 7**

### **PPA ACCEPTANCE; INSTALLATION; OPERATION; AND REPORTS**

**7.1. PPA Acceptance and Execution.** When PGCC and the Financial Provider have approved a Project, Financial Provider will offer the Eligible Customer the opportunity to enter into a PPA with the approved PPA Payment. It will provide the Eligible Customer with updated Required Customer Disclosures and notice of its Right of Rescission. If the Eligible Customer accepts the PPA, the Eligible Customer and Financial Provider will execute the PPA, and the Eligible Customer, the Financial Provider and the Installer will execute an agreement (the **Assignment and Acknowledgement**) in which (i) the Eligible Customer and the Installer acknowledge that the conditions to the effectiveness of the Installation Contract are satisfied, (ii) the Eligible Customer transfers its interest in the Project and its rights under the Installation Contract with respect to the installation of Project to the Financial Provider in return for Financial Provider assuming all of Eligible Customer’s financial obligations for the installation of the Project and entering into the PPA, (iii) the Eligible Customer retains the right to approve Change Orders, to be made whole for damage to its property, and similar rights that are personal to the Customer, and (iv) the Eligible Customer and the Financial Provider authorize the Installer to commence the installation of the Project at the expiration of the Eligible Customer’s Right of Rescission.

**7.2. Installation.** The Financial Provider will supervise the installation of the Project and make all required payments to the Installer in accordance with the terms of the Installation Contract.

**7.3. Customer Support.** Throughout the period leading to acceptance by an Eligible Customer of a PPA, during installation, and during the term of the PPA the Financial Provider will maintain an effective customer support organization. The Financial Provider will respond to Eligible Customer and Customer requests for information and Customer concerns about the Customer’s Project within three business days, provided that if it is not commercially feasible to respond in three days, Financial Provider may take a longer period not to exceed 10 days. Financial Provider’s performance in this regard will be evaluated in Customer satisfaction surveys pursuant to Section 8.7(c).

**7.4. Change Orders.** In the event that a Force Majeure Event requires a change in the Project Scope (a **Change Order**) under the Installation Contract, that affects the cost of installation, the Financial Provider may, with PGCC and Eligible Customer approval, adjust the Approved Installation Price and PGCC will make any resulting adjustments to the Incentive Payments.

**7.5. Inspection.** PGCC will retain the QC Contractor and cause it to perform inspections of the first 5 Projects installed by an Installer and a random sample of installed Projects thereafter and all Projects including Battery Storage. PGCC may require inspection of any project. Inspection Procedures will be set forth in the Program Manual.

**7.6. Project Completion.** Project Completion will be achieved as of the date that all of the following conditions have been satisfied and approved by the Financial Provider and PGCC:

- (a) the Project installation is complete, including any punch list items;
- (b) the Project has been Placed in Service;
- (c) the Customer's property is clear of all liens, claims, security interests or encumbrances arising out of or in connection with the Project installation;
- (d) the Installer has delivered all Installer Documents;
- (e) The QC Contractor has completed its inspection if required and any required corrective work is completed; and
- (f) All required data & documents (including but not limited to final contracts, inspection documents, and reporting required by EPA) have been submitted to and approved by PGCC.

**7.7. Operation.** Financial Provider shall:

- (a) Operate, maintain, and guarantee the performance of installed Projects in accordance with the terms of their PPAs.
- (b) Share Project energy production data with PGCC on at least a semi-annual basis to facilitate PGCC's purchase and monetization of SRECs and conduct spot-checks of actual household savings over time.

**7.8. Reporting Requirements.** Financial Provider shall provide reports to PGCC with respect to all Proposals and Projects in progress as follows:

- a) Monthly production data for each interconnected system, provided on a semi-annual basis (for periods January 1 – June 30; July 1 – December 31) and due 30 days after the end of each semi-annual period.

- b) For each interconnected Project, all data elements required by PGCC to complete the Transaction and Project Level Report required by EPA, as it may be revised from time to time, and any additional data required by PGCC, by no later than the last calendar day of the month following the month in which the Project was interconnected.
- c) For each interconnected Project, all documents required by PGCC to demonstrate final Project Completion and additional information as required in the Program Manual, by no later than the last calendar day of the month following the month in which the Project was interconnected.
- d) On a quarterly basis, a status update on all projects that have received PGCC approval and are under contract and have not yet been interconnected.
- e) On an annual basis, data regarding procurement & subcontracting to disadvantaged business enterprises in a format acceptable to PGCC for the period of October 1-September 30, due by October 20 of each year.
- f) Any other reports as reasonably requested by PGCC.

## **ARTICLE 8 FURTHER AGREEMENTS**

### **8.1. Representations.**

- (a) Each Party represents and warrants to the other that:
  - (i) it is duly organized and in good standing in the jurisdiction of its organization and, if not organized in the State, is licensed to do business as a foreign corporation in the State;
  - (ii) it has the power, authority and legal right to enter into and perform this Agreement and the Financial Provider's execution and delivery of, and its performance under, this Agreement will not violate such Party's organizational documents or any judgment, order, law or regulation;
  - (iii) no consent, permission or approval is required for the valid execution and delivery by the such Party of this Agreement or for the party's performance hereunder, except those that have been obtained; and

(iv) this Agreement has been duly authorized, executed and delivered by the Party and constitutes a legal, valid and binding obligation of the Party, enforceable in accordance with its terms, except to the extent limited by bankruptcy or similar laws or by general equitable principles concerning remedies.

(b) In addition, Financial Provider represents that it is not a Foreign Entity of Concern or Sanctioned Person; and it is not debarred or suspended by any federal, state, or local government agency.

**8.2. Recordkeeping; Audit Rights.** The Financial Provider shall keep and maintain records, books, accounts and other documents sufficient to reflect accurately and completely all Installer Documents, Financial Provider and PGCC approvals, invoices from and payments made to Installers, any disputes with Installers, and all evidence of completion of all Projects. PGCC and its agents and accountants shall have access to all such records for the purposes of verifying all construction activities that are the basis of a progress payment and all amounts that are the basis of a claim for additional payment and to reproduce any such records. The Financial Provider shall retain all records with respect to each Proposal and Project for at least five years after the termination of the all PPAs executed under this Agreement.

**8.3. Insurance.**

(a) The Financial Provider, at its own expense, shall procure and maintain during the term of this Agreement for each Project and the related Project Site all-risk property insurance for not less than the then replacement value of the Project and Site repairs, a commercial general liability policy in amounts and with limits consistent with the scale of its operations, and a workers' compensation policy. All insurers must be licensed by the Commonwealth and rated A-minus or better by A.M. Best or a comparable rating service and must provide coverage for PGCC for claims. At PGCC's request from time to time, the Financial Provider shall submit to PGCC (i) certificates of insurance evidencing that such insurance coverage is in effect and/or (ii) a certified copy of any applicable policy of insurance. The Financial Provider (or Installer as applicable) shall pay all deductibles under such policies.

(b) Should any required insurance policy of Financial Provider under this Section 8.3 be cancelled without replacement, the Financial Provider shall notify PGCC of such action within two business days of becoming aware of it. Nothing in this subsection (b) derogates from the Financial Provider's obligation to maintain the insurance described in subsection (a) above.

(c) The foregoing provisions will not be construed in any manner as waiving or restricting the liability of the Financial Provider under this Agreement.

**8.4. Confidentiality.** The Financial Provider's systems, means, cost, and methodologies of evaluating, implementing, accomplishing and determining the Pre-Incentive

PPA Payment and the terms of this Agreement shall be considered privileged and proprietary information. PGCC shall use the same level of effort to protect and safeguard such information as it employs to safeguard its own confidential information. PGCC shall not disclose such proprietary information without the express written consent of an officer of the Financial Provider unless required to do so by statute or regulation. When any request for disclosure of such information is made under any applicable freedom of information act, PGCC will provide prompt verbal and written notice to the Financial Provider of the request for production and the timetable for production. In the event that PGCC is required to make a filing with any agency or other governmental body, which includes such information, PGCC shall notify the Financial Provider and cooperate with the Financial Provider in order to seek confidential treatment of such information included within any such filing or, if all such information cannot be protected from disclosure, to request that PGCC be permitted to redact portions of such information, as the Financial Provider may designate, from the portion of such filing that is to be made available to the public.

#### **8.5. Public Policy Provisions.**

(a) Unless an Installer or a Project is exempt from the requirements of the Pennsylvania's Minimum Wage Act, the wages and salaries paid to permanent and temporary employees employed by Installers in the installation of Projects shall at no time during the term of this contract be less than the prevailing minimum wage determined in accordance with Exhibit F (Prevailing Wage Rates). The Financial Provider shall ensure that each Installer and each Installer subcontractor keeps an accurate record showing the name, craft and actual hourly rate of wage paid to each worker employed by such Person in connection with the installation of any Project that is not Minimum Wage Act exempt, and such record shall be preserved for two years from date of payment.

(b) The Financial Provider shall perform, or cause to be performed, its services in accordance with the specific standards, methods and requirements set forth in this Agreement and the Program Manual, all applicable laws, rules and regulations applicable to the Program and to the installation and operation of the Projects, and good financial industry practice. Financial Provider shall maintain all licenses required to perform its obligations under this Agreement.

(c) Because the SFA program is funded by the EPA under the IRA, and PGCC is a subawardee of PEDA, Financial Provider must comply with and require any subcontractor to comply with the requirements set forth in Exhibit GExhibit (Federal Contracting Requirements) and Exhibit H (State Contracting Requirements).

**8.6. Indemnification.** Financial Provider agrees, to the fullest extent permitted by law, to indemnify, and hold harmless PGCC, PEA, their affiliates, and their respective agents, employees, offices, directors, and owners, from and against all liabilities, costs, expenses, claims, disputes, damages, lawsuits, losses, or assessments (including reasonable attorney's fees) suffered

or incurred in connection with any claim asserted related to Financial Provider's performance under this Agreement by any party (regardless of the form of or forum in which such claim may be asserted) whether caused by Financial Provider's negligent or willful act or omission, or that of anyone employed, retained, or utilized by Financial Provider.

### **8.7. Customer Protections.**

(a) *Privacy.* Any Customer contact information or other personal information supplied to Financial Provider as part of the Program may be used only for performing Financial Provider's services in accordance with the Program and not for any other purposes. Financial Provider shall not share this customer or participant information with any third party other than those authorized by PGCC. Financial Provider must ensure protection of any stored data, particularly personally identifiable information, and adopt robust security controls. Financial Provider must have cybersecurity and data privacy programs that utilize best industry practices, standards and frameworks, such as ISO/IEC 27001, ISO/IEC 27701, NIST Cybersecurity Framework, and NIST Privacy Framework.

(b) *Photos and Recordings.* Financial Provider will not use or publish any photos or any audio or video recordings of Customers or their property without written consent from the participant. If the photo or recording is of a Person that is under 18 years old, Financial Provider must have written consent of the Person's parent or guardian in order to use or publish any photos or recordings of such Persons.

(c) *Customer Satisfaction.* PGCC may conduct satisfaction surveys with Customers and officers or other personnel of partners and subcontractors involved in the Program. If the results of these surveys show significant and/or repeated dissatisfaction with Financial Provider, this Agreement may be terminated. Financial Provider will exercise a high level of Customer service and assist Customers at all times in an ethical, professional, and courteous manner. Customer complaints regarding unprofessional behavior by Financial Provider will be grounds for termination under the Agreement.

(d) *Complaints.* Financial Provider shall provide Customers with a customer friendly complaint mechanism for concerns about the Installation of their Project, either with direct recourse to Financial Provider or as a second step after raising concerns with the Installer. If a Customer is not satisfied after raising its concerns with the Financial Provider, the Customer may bring unresolved concerns to PGCC. PGCC will provide details of the process for raising concerns with PGCC in the Program Manual, and Financial Provider will provide that information to Customers as a part of the Required Disclosure.

### **8.8. Force Majeure**



(a) *Force Majeure Event*. Neither party shall be held responsible for delay or default caused by war, insurrection, acts of terrorism, strikes, lockouts, labor disputes, riots, terrorist acts or other acts of political sabotage, volcanoes, floods, earthquakes, fires, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, a change in law or regulation, unusually severe weather, or any other act or circumstance beyond the reasonable control of the party claiming to be excused and without fault or negligence of such party (**Force Majeure Event**).

(b) *Reasonable Efforts to Remove or Eliminate Force Majeure Event*. The party affected by the Force Majeure Event shall make all reasonable efforts to remove or eliminate the cause of the Force Majeure Event and shall diligently pursue performance of its obligations under the Agreement after the Force Majeure Event ceases.

(c) *Written Notice; Effect of Delay*. If there is a delay as a result of a Force Majeure Event, the party delayed shall give written notice of the delay and the reason of the delay to the non-delayed party within ten days after the party delayed learns of the Force Majeure Event. The party delayed may request an extension of time up to the length of time of the delay due to a Force Majeure Event. Financial Provider shall not be entitled to additional compensation for delays that occur under this subsection.

## **ARTICLE 9 TERMINATION; SUSPENSION**

### **9.1. Termination for Convenience; Suspension**

a. PGCC and Financial Provider may terminate the Agreement at any time by mutual written consent.

b. PGCC may suspend the effectiveness this Agreement at any time if SFA funding is no longer available to PGCC and may terminate this agreement if SFA funding is permanently terminated or suspended for more than 180 days.

### **9.2. Termination for Cause**

a. *For Cause by PGCC*. PGCC may terminate the Agreement, in whole or in part, immediately upon notice to Financial Provider, or at a later date as PGCC may establish in its notice to Financial Provider, upon occurrence of any of the following events:

i. Federal or state laws, regulations, or guidelines are modified or interpreted in a way that the Services under the Agreement are prohibited.

ii. Financial Provider no longer holds a license or certificate that is required to perform the Services.

iii. Financial Provider materially breaches a covenant.

- iv. Any representation or warranty made by Financial Provider in Section 8.9 is false or misleading in any material respect when made or when deemed made or repeated.
- v. The insolvency, liquidation, or bankruptcy of Financial Provider.

b. *For Cause by Financial Provider.* Immediately upon notice to PGCC, or at such later date as Financial Provider may establish in its notice to PGCC, upon occurrence of either of the following events:

- i. PGCC does not make payments required under this Agreement within 10 days of when it is due.
- ii. PGCC fails to perform any other material covenant or obligation set forth in this Agreement if that failure is not cured within thirty days after receipt of written notice from Financial Provider.

### **9.3. Remedies**

In the event of termination pursuant to Section 9.2, the non-defaulting party shall have any remedy available to it in law or equity.

### **9.4. Post-termination Procedures**

Upon expiration or earlier termination of this Agreement for any reason, all rights and obligations of the parties shall cease, except:

- a. Obligations for the payment of money that accrue prior to the date of termination, including obligations to pay Incentive Payments for PPAs entered into prior to termination of this Agreement for Projects, when completed, whose installation is still underway, shall survive termination.
- b. Financial Provider shall deliver to PGCC all required reports and other deliverables relating to periods prior to termination and thereafter for projects not completed at the time of termination.
- c. Financial Provider's obligation to indemnify PGCC under Section 8.6 shall survive termination.
- d. The parties' obligations under Section 8.4 shall survive termination.
- e. Financial Provider's obligation relating to customer and participant information under Section 8.7 shall survive termination.

## **ARTICLE 10 MISCELLANEOUS**

**10.1. Notices, Etc.** Unless otherwise specifically provided in this Agreement, all notices, consents, waivers, approvals, or authorizations given under this Agreement must be in writing and

may be telecopied, delivered by hand, emailed, mailed by first class, registered mail (return receipt requested) or sent by FedEx or similar courier service and addressed as follows:

|                                  |                    |
|----------------------------------|--------------------|
| If to PGCC:                      | With a copy to:    |
| Philadelphia Green Capital Corp. | [ <i>Name</i> ]    |
| [ <i>Address</i> ]               | [ <i>Address</i> ] |
| [ <i>Email</i> ]                 | [ <i>Email</i> ]   |
| <br>                             |                    |
| If to the Financial Provider:    | With a copy to:    |
| [Financial Provider]             | [ <i>Name</i> ]    |
| [ <i>Address</i> ]               | [ <i>Address</i> ] |
| [ <i>Email</i> ]                 | [ <i>Email</i> ]   |

Each party may change the address to which its communications are delivered by giving notice to the other party.

**10.2. Assignment.** This Agreement may not be assigned by any party, directly or by merger or other operation of law, without the consent of the other parties, for which consent may not be unreasonably withheld. Any purported assignment of this Agreement in violation of this Section 10.2 will be null and void. In addition, Financial Provider may not sell, assign, or transfer any PPAs for which it has received or expects to receive Incentive Payments to any other party without PGCC consent; provided that Financial Provider may make a collateral assignment of PPAs in connection with financing its operation of the Program or make an assignment of PPAs in connection with a securitization of PPA revenues so long as it retains the obligation to operate and maintain the Projects and guarantee their performance and otherwise comply with the terms of this Agreement.

**10.3. Relationship of the Parties.** Nothing herein will be deemed to establish a relationship of principal and agent between or among any party or any of their respective agents or employees, and this Agreement may not be construed as creating any form of legal association or arrangement that would impose liability upon one party for the act or failure to act of the other party.

**10.4. No Waiver.** Any waiver of, or consent to depart from, the requirements of any provision of this Agreement will be effective only if it is in writing and signed by the party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of either party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right.

**10.5. Severability.** If any provision of this Agreement is determined to be invalid, illegal or unenforceable in any respect, the parties shall negotiate in good faith and agree to such

amendments, modifications or supplements of or to this Agreement or such other appropriate actions as may, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and the other provisions hereof will, as so amended, modified or supplemented, or otherwise affected by such action, remain in full force and effect.

**10.6. Complete Agreement; Amendments.** This Agreement, including all Exhibits, constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the parties as to the subject matter hereof. This Agreement may not be amended or modified except by a written instrument signed by the parties.

**10.7. Governing Law; Venue; Waiver of Jury Trial.** This Agreement will be governed by, and interpreted and enforced in accordance with, the laws of the State (excluding any conflict of laws rule or principle that might refer such interpretation to the laws of another jurisdiction). Each party consents to the jurisdiction and venue in any state or Federal court of the State for the purposes of any suit, action or other proceeding arising in connection with this Agreement. The parties hereto expressly waive any right to trial by jury in any action brought on or with respect to this Agreement.

**10.8. Third-Party Beneficiaries.** Nothing in this Agreement provides any benefit to any third party or entitles any third party to any claim, cause of action, remedy or right of any kind; provided that PEA is an intended third-party beneficiary of this Agreement.

**10.9. Headings.** Headings used in this Agreement are for the purpose of convenience only, and no heading may be construed to modify or be used to interpret the text of any Section.

**10.10. Successors and Assigns.** All the covenants, promises and agreements in this Agreement by or on behalf of a party hereto will bind and inure to the benefit of its successors and permitted assigns, whether so expressed or not.

**10.11. Counterparts.** This Agreement may be executed in counterparts that, taken together, will constitute one and the same agreement.

**10.12. Electronic Signatures.** The parties acknowledge and agree that notwithstanding any law or presumption to the contrary, a telefaxed, electronic signature or signature that is transmitted electronically of either party whether upon this Agreement or any related document shall be deemed valid and binding and admissible by either party against the other as if same were an original ink signature.

## Signatures

As evidence of their intent to be legally bound, PGCC and the Financial Provider have each caused this Service Agreement to be duly executed by their duly authorized representatives as of the day and year first written above.

PHILADELPHIA GREEN CAPITAL CORP.

By: \_\_\_\_\_  
Name:  
Title:

[FINANCIAL PROVIDER]

By: \_\_\_\_\_  
Name:  
Title:

## **Exhibit A**

### **REQUIRED CUSTOMER DISCLOSURES**

The Financial Provider must provide each customer, directly or through the Installer, with a summary in plain English and a clear format (subject to review and approval by PGCC) of the Customer's expectations and rights in connection with the PPA including:

1. The capacity of the System and its Expected Annual Production, including monthly variation and degradation over time, with a comparison to Customer's current usage.
2. An explanation of net metering, how system production will be reflected on the customer's utility bill, and the expected savings, which must reflect the 20 percent (or greater) initial annual savings made possible by the SFA program.
3. That the Financial Provider will own the system, take the entire responsibility for supervising the Installer and paying the cost of installation, and will have full responsibility for operation and maintenance for the term of the PPA.
4. That the Customer's financial obligation is limited to the monthly PPA payments and homeowner's insurance costs, if required.
5. That the Customer is required to buy electricity from its default service provider for the portion of their electricity usage not offset by the solar array.
6. A description of any Enabling Upgrades that will be included in the installation (and that there is no additional charge).
7. The terms of Customer's purchase option.
8. What happens when the PPA ends.
9. What happens if the Customer misses a PPA payment.
10. What happens if the Customer sells its property.
11. Who to contact in the event of a dispute.
12. The Customer's rights under the Pennsylvania Home Improvement Consumer Protection Act.
13. The Customer's right of rescission.

## Exhibit B

### Power Purchase Agreement Required Terms

1. **Term.** The PPA must have a term of [15-25] years
2. **Purchase Option.** Customer must have a purchase option for greater of (i) fair market value and (ii) the early termination fee (if specified) at the end of the term and at intervals after the placed-in-service date. The PPA must include a schedule of purchase prices over time.
3. **Site Lease.** Either in the PPA or as a separate agreement the Customer will lease the Project site to the Financial Provider for at least the term of the PPA. The Site Lease must preserve Customer's access to its property so long as it does not interfere with the Project. The Project will not constitute real property or fixtures. Financial Provider is responsible for any taxes on the Project.
4. **Ownership of the Project.** The Customer transfers its interest in the Project and its rights under the Installation Contract with respect to the installation of Project to the Financial Provider in return for Financial Provider assuming all of Customer's financial obligations for the installation of the Project and entering into the PPA. The Customer retains the right to approve change orders, to be made whole for damage to its property, and similar rights that are personal to the Customer.
5. **Operation of the Project.** The Financial Provider is solely responsible for all operation, repair, warranty management, monitoring and maintenance of the System and all costs incurred in that regard.
6. **Metering.** The Financial Provider shall test the Project Meters periodically and correct as needed. Customer has the right to request a test.
7. **Damage to the Project.** If the Project is damaged the Financial Provider will repair at no cost to customer but may terminate the PPA without liability if the Project is destroyed.
8. **Purchase of Electricity.** Customer will purchase the entire electrical output of the Project from the Financial Provider for a fixed monthly payment that may escalate annually. Financial provider guarantees production to be [90] percent of the estimated annual deliveries and refunds or credits any overpayment as an annual true-up if the guarantee is not met.
9. **SRECS.** As between the Customer and the Financial Provider the Financial Provider owns all SRECs resulting from Project Operation prior to a purchase of the Project by Customer.
10. **Insurance.** Customer must maintain Insurance on its own property, if required, and Financial Provider must maintain insurance on the Project and Site.
11. **Indemnity; Excuse; Release** Financial Provider must indemnify the Customer for any

damage caused to Customer's property in the maintenance of the Project. Customers are all low-income households and the Financial Provider's insurance should cover any damage caused by the Customer. Financial Provider is excused from performance if non-performance is caused by customer caused damage or interference. Customer should release PGCC and PEA from any liability in connection with the Project.

12. **Force Majeure.** Each party's obligations are excused due to circumstances beyond its control. The party experiencing an uncontrollable circumstance must report promptly to the other party and take commercially reasonable steps to resume performance.

13. **Confidentiality; Use of Personal Information.** Financial Provider will keep the Customer's information confidential. Financial Provider must have Customer permission to disclose personal information about Customer or use photos or recordings (audio or visual) of Customer or Customer's property; provided that both parties understand that Financial Provider is obligated to provide certain information about the customer and the Customer's Project to PGCC and PEA and PGCC in turn is obligated to provide that information to PEDA and the EPA.

14. **Assignment.** Customer may assign the PPA in connection with a sale of its home; Financial Provider must disclose the fee for such assignment, if any, in the PPA. In the event that the Customer sells their home and the purchaser does not want the PPA, the Customer would buy out the PPA with the proceeds of the sale. Financial Provider may make a collateral assignment of the PPA in connection with its financing arrangements. Financial Provider may make an assignment in connection with securitization of PPA revenues, provided that it retains all obligations to the Customer including obligations to operate and maintain the Project and indemnify the Customer.

15. **Late Fees.** The PPA must not assess late fees unless the payment is made more than [15] days past the due date. The late fee must not be greater than [\$ or x% of the late payment].

16. **Payment Default.** The PPA shall not determine the Customer to be in default unless/until it has failed to make all required payments, including late payments, penalty, and fees, within [21] or more days of the due date AND customer fails to cure the default within 30 days of receiving notice from Financial Provider.

17. **Payment Schedule.** The PPA must disclose the annual escalator, if any, and show the monthly payment to be charged in each year of the PPA term.

18. **Right of Rescission.** The PPA must allow the customer to cancel the PPA contract within [7] business days of execution with no penalties or obligations.

19. **Grievance.** The PPA must include a clear and accessible grievance and appeal process for customers with concerns about the installation operation or maintenance of their system or metering, billing or payment processes. Customers who are not satisfied with the Financial Provider's resolution of an issue must have a clear channel agreed to by PGCC to request assistance from PGCC.



**Exhibit C**  
**PROPOSED PRICING MODEL**

**[To Come]**

**Exhibit D**  
**UNDERWRITING TERMS**

[To come.]

**Exhibit E**

**SOLAR INCENTIVE PAYMENT CALCULATOR**

Available at <https://tinyurl.com/ExhibitECalculator>.

## **Exhibit F**

### **PREVAILING WAGES**

If applicable, current prevailing wage rates must be obtained for each Project at the time the PPA is signed and installation is commenced. Wage rates may be obtained from the Pennsylvania Department of Labor and Industry at: <https://www.pa.gov/agencies/dli/resources/compliance-laws-and-regulations/labor-management-relations/labor-law/prevailing-wage.html>

Prevailing wages are currently not required for Projects with an Approved Installation Price of less than \$25,000.

## Exhibit G

### FEDERAL CONTRACTING REQUIREMENTS

In this contract and in its contracts with subcontractor(s), Financial Provider must comply with all applicable [federal](#) and [Environmental Protection Agency](#) requirements now and hereafter enacted, including the requirements laid out below. However, if Financial Provider is able to demonstrate to PGCC the inapplicability of certain terms and conditions here, PGCC reserves the right to exclude such provisions.

1. Clean Air Act and Water Pollutions Control Act (only for contracts in excess of \$150,000)
  - a. Financial Provider agrees to comply with all applicable standards, order or regulations issued pursuant to the Clean Air Act, as amended [42 USC 7401 et seq.](#), [2 CFR Appendix-II-to-Part-200\(G\)](#).
  - b. Financial Provider agrees to report each violation to the contracting entity and understands and agrees that the contracting entity will, in turn, report each violation as required to assure notification to the grantor federal agency and the appropriate Environmental Protection Agency Regional Office.
  - c. Financial Provider agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance.
  - d. Financial Provider agrees to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, [33 USC 1251 et seq.](#)
  
2. Requirements under the Code of Federal Regulations
  - a. Overall

Financial Provider must assist PGCC in meeting its responsibilities under the federal requirements, including by providing PGCC with information, documents, and records in the format requested by PGCC, PEDAs, and/or federal or state auditors. See generally, [2 CFR §200.332](#); 2CFR §200, Subpart D; 2CFR §200, Subpart F.
  
  - b. Reporting and Program Requirements
    - i. Financial Provider must enable site visits to review program operations. [2 CFR §200.332\(f\)\(2\)](#).
    - ii. Financial Provider must meet all reporting requirements as needed to enable PGCC to comply with the requirements described in the SFA terms and conditions, including Contractor's "grant-related activities". SFA Terms and Conditions, at II.A. Examples include, but are not limited to, information, documents, and records in:

- a) financial statements and reports, including certifications listed in [2 CFR §200.415](#);
- b) performance reports;
- c) programmatic reports, including, but not limited to, information on environmental results; and
- d) audit findings.

c. Subcontractor Payment Requirement

Financial Provider must pay each subcontractor within 30 days of receiving payment from PGCC. [40 CFR §33.302\(a\)](#).

d. Requirements for Disadvantaged Business Enterprises (DBEs)

- i. The contractor (Financial Provider) shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies. [40 CFR 33.106](#), [40 CFR 33, Appendix A](#).
- ii. Financial Provider must notify PGCC before any termination for convenience of a DBE. [40 CFR §33.302\(b\)](#).
- iii. Financial Provider must apply the six good-faith efforts described in [40 CFR §33.301](#) if replacing a subcontractor due to its failure to complete work for any reason.
- iv. Financial Provider must apply the six good-faith efforts described in [40 CFR §33.301](#) even if Financial Provider has achieved its fair share objectives per [40 CFR 33, Subpart D](#).
- v. [Reserved per EPA Memo dated 3/8/2016, “Suspended Use of Forms Associated with Disadvantaged Business Enterprises in Financial Assistance Agreements”].
- vi. Financial Provider must provide information on its total procurement and DBE procurement annually to enable PGCC and PEDDA to complete EPA 5700-52A.

e. Record Retention

- i. Financial Provider must collect, transmit, and store the award information in open and machine-readable formats, further described in [2 CFR §200.336](#).

- ii. Financial Provider must retain all records for three years from the date of submission of final financial reports in compliance with record requirements limited to [2 CFR §200.334](#) provisions.

f. Prohibition on Subcontracting

Financial Provider must not further contract with parties listed on the governmentwide exclusions in the System for Award Management (SAM) in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Com., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” [2 CFR Appendix-II-to-Part-200\(H\)](#).

g. Telecommunications

Financial Provider must not use the funds to either procure or obtain, or extend or renew contracts to procure or obtain or enter into contracts to procure, or obtain covered telecommunications equipment or services produced by entities described in section 889 of [Public Law 115-232](#). [2 CFR §200.216](#).

h. Byrd Anti-Lobbying Certifications

For awards \$100,000 or more, Financial Provider must file the required certification wherein each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence and officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by [31 USC 1352](#); and each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. [2 CFR Appendix-II-to-Part-200\(I\)](#).

Such disclosures are forwarded from tier to tier, up to the recipient. Language for the required certification can be found as EPA Frm 6600-6.

i. Domestic Preference

- a. Financial Provider should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts including all purchase orders for work or products under this award.
- b. For purposes of this section:
  - i. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

- ii. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

j. Procurement of Recovered Materials

The contractor (Financial Provider) should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.

k. Consumer Protection Requirements

To the extent that Financial Provider directly interacts, transacts, or contracts with consumers, PGCC will monitor and oversee it to ensure compliance with consumer protection requirements, including the following

- a. Comply with the Equal Credit Opportunity Act, the Truth in Lending Act, the Consumer Financial Protection Act, and other federal consumer protection laws that apply;
- b. Provide written disclosures to consumers containing information in clear and understandable language regarding purchasing, leasing, or financing as well as the costs associated with a consumer’s transaction;
- c. With regard to solar products or services, provide written disclosures on the impact of the solar project on the consumer’s ability to sell or refinance their home and recording of any liens on the home; consumer rights; contact information for the solar project provider; and complaint procedures for the consumer if they have a problem with the solar project or sales process; require that all in-person and telephone marketing that directly interacts, transacts, or contracts with consumers be conducted in a language in which the consumer subject to the marketing is able to understand and communicate; and
- d. Maintain a process for receiving, monitoring, and resolving consumer complaints, including ensuring that complaints are appropriately addressed and referring complaints, when necessary, to the appropriate government regulatory agency.



See SFA Ts & Cs, at III.L; [2 CFR 200.332\(e\)](#) and [2 CFR 200.318](#).

1. Remedies

Contractor understands and agrees that non-compliance with these requirements, and/or any applicable federal or state laws may result in remedies and/or penalties pursuant to the Agreement.

3. Build America, Buy America

Financial Provider must not use any funds for an infrastructure project unless:

- a. All iron and steel used in the project are produced in the United States – this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. All manufactured products used in the project are produced in the United States – this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufacture product; and
- c. All construction materials are manufactured in the United States – this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed [in [EPA General Terms and Conditions](#), Effective October 1, 2024]

[2 CFR Part 184, Office of Management and Budget's \(OMB\) Memorandum M-24-02 Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.](#)

4. Copyright and Data Rights (if applicable)

- a. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works.
- b. Financial Provider grants to the contracting entity, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including

prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data.

- c. For data required by the contract but not first produced in the performance of this contract, Financial Provider will identify such data and grant to the contracting entity or acquire on its behalf a license of the same scope as for data first produced in the performance of this contract.
- d. Upon or before the completion of this contract, Financial Provider will deliver to the contracting entity data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the contracting entity.

##### 5. Requirements under the Equal Employment Opportunity Provisions

Pursuant to [41 CFR 60-1.4](#) and [2 CFR Appendix-II-to-Part-200\(C\)](#), Contractor (Financial Provider) must comply with equal employment opportunity provisions to the extent it is not exempt from said requirements.<sup>1</sup>

“During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate

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<sup>1</sup> Exemptions may be based on the Presidential Action on Ending Illegal Discrimination and Restoring Merit-Based Opportunity, which is being contested in the courts.

against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any

subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

[2 CFR Appendix-II-to-Part-200\(C\)](#).

6. Additional EPA Terms

Financial Provider must comply with all requirements adopted by the EPA, in connection with the implementation of the SFA program including:

- a. EPA Terms and Conditions: [https://www.epa.gov/system/files/documents/2024-10/fy\\_2025\\_epa\\_general\\_terms\\_and\\_conditions\\_effective\\_october\\_1\\_2024\\_or\\_later.pdf](https://www.epa.gov/system/files/documents/2024-10/fy_2025_epa_general_terms_and_conditions_effective_october_1_2024_or_later.pdf)
- b. Solar for All Terms and Conditions: <https://tinyurl.com/SFATsandCs>

## Exhibit H

### STATE CONTRACTING REQUIREMENTS

In performing this Agreement, Financial Provider must comply and must ensure that each subcontractor complies with all requirements of Commonwealth and local law now or hereinafter enacted to the extent applicable to Financial Provider or its subcontractors of any tier.

#### 1. DEFINITIONS

Capitalized terms used in these standard terms and conditions that are not otherwise defined in these provisions have the meanings specified in the Agreement. The following terms are defined as set forth below.

**Contractor** means Financial Provider or its subcontractor of any tier, including, a bidder, offeror, loan recipient, or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, lease, purchase order or reimbursement agreement with the Commonwealth.

**Contract** means this Agreement with respect to the Financial Provider and its subcontract with Financial Provider or a higher level subcontractor with respect to a subcontractor.

#### 2. INDEMNIFICATION

Contractor shall indemnify and defend the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with any activities performed by Contractor or its employees and agents pursuant to this agreement, as determined by the Commonwealth in its sole discretion.

#### 3. NONDISCRIMINATION/SEXUAL HARASSMENT

- a. **Representations.** Contractor represents that it is presently in compliance with and will remain in compliance with all applicable federal, state, and local laws, regulations, and policies relating to nondiscrimination and sexual harassment for the term of the agreement. Contractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to its books, records, and accounts by the Commonwealth for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- b. **Nondiscrimination/Sexual Harassment Obligations.** Contractor shall not:

- i. in any manner discriminate in the hiring of any employee(s) for the performance of the activities required under this Contract or any contract, or subcontract, by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act (“PHRA”) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
  - ii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any of its employees.
  - iii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under this Contract or any contract, or subcontract.
  - iv. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any Contractor or supplier who is qualified to perform the work to which this agreement relates.
  - v. in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act, or National Labor Relations Act, as applicable, and to the extent determined by entities charged with the Acts’ enforcement and shall comply with any provision of law establishing organizations as employees’ exclusive representatives.
- c. **Establishment of Contractor Policy.** Contractor shall establish and maintain a written nondiscrimination and sexual harassment policy that complies with the applicable law and these Nondiscrimination/Sexual Harassment provisions and shall inform its employees in writing of the policy. The policy must contain a provision that states that sexual harassment will not be tolerated and employees who practice it will be disciplined. For the entire period of this agreement, Contractor shall: (1) post its written nondiscrimination and sexual harassment policy or these Nondiscrimination/Sexual Harassment provisions conspicuously in easily accessible and well-lighted places customarily frequented by employees at or near where the Contract activities are performed; or (2) provide electronic notice of the policy or this clause to its employees not less than annually.
- d. **Notification of Violations.** Contractor’s obligations pursuant to these provisions are ongoing from the effective date and through the termination date of the agreement. Accordingly, Contractor shall notify the Commonwealth if, at any time during the term of this agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.

- e. **Cancellation or Termination of Agreement.** The Commonwealth may cancel or terminate this agreement and all money due or to become due under this agreement may be forfeited for a violation of the terms and conditions of these Nondiscrimination/Sexual Harassment provisions. In addition, the PEDAs may proceed with debarment or suspension and may place Contractor in the Contractor Responsibility File.
  
- f. **Contracts, and Subcontracts.** Contractor shall include these Nondiscrimination/Sexual Harassment provisions in its contracts, and subcontracts with all contractors, and subcontractors providing goods or services under this agreement. The incorporation of these provisions in the Contractor's contracts, or subcontracts does not create privity of contract between the Commonwealth and any contractor, or subcontractor, and no third-party beneficiaries are created by those provisions. If Contractor becomes aware of a subcontractor's violation of these provisions, Contractor shall use its best efforts to ensure subcontractor's compliance with these provisions.

#### 4. CONTRACTOR INTEGRITY

- a. **Definitions.** For purposes of these Integrity Provisions, the following definitions apply:
  - i. "Affiliate" means two or more entities where (a) a parent entity owns more than 50% of the voting stock of each of the entities; (b) a common shareholder or group of shareholders owns more than 50% of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
  
  - ii. "Related Parties" means any Affiliates of Contractor and Contractor's executive officers, Pennsylvania officers and directors, or owners of five percent or more interest in Contractor.
  
  - iii. "Financial Interest" means ownership of more than a five percent interest in any business or holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
  
  - iv. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [Governor's Code of Conduct, Executive Order 1980-18](#), as may be amended, 4 Pa. Code §7.153(b), apply.
  
- b. **Representations and Warranties.**
  - i. **Contractor Representation and Warranties.** Contractor represents, to the best of its knowledge and belief, and warrants that within the last five years neither Contractor nor Related Parties have:
    - 1. been indicted or convicted of a crime involving moral turpitude or business



- honesty or integrity in any jurisdiction;
  2. been suspended, debarred, or otherwise disqualified from entering into any contract with any governmental agency;
  3. had any business license or professional license suspended or revoked;
  4. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
  5. been, and are not currently, the subject of a criminal investigation by any federal, state, or local prosecuting or investigative agency or civil anti-trust investigation by any federal, state, or local prosecuting or investigative agency.
  6. The Contractor represents for itself and its contractors, and subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this agreement, that neither the Contractor, nor any of its contractors and subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot make this representation, the Contractor shall submit, along with the agreement, a written explanation of why the certification cannot be made.
  7. The Contractor represents that, as of the date of its execution of this agreement, it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal, if any liabilities or obligations exist, or is subject to a duly approved deferred payment plan if any liabilities exist.
- ii. **Contractor Explanation.** If Contractor cannot make the representations and warranties set forth above at the time of the execution of this Agreement or a subcontract, as applicable, Contractor shall submit a written explanation outlining the reasons why it cannot make those representations and warranties. The Commonwealth may, based on its evaluation of the explanation provided, determine whether it is in the Commonwealth's best interest to execute the agreement.
- iii. **Further Representations.** By submitting any bills, invoices, or requests for payment pursuant to the agreement, Contractor further represents that it has not violated any of these Integrity Provisions during the term of the agreement.
- iv. **Notices.** Contractor shall immediately notify the Commonwealth, in writing, if at any time during the term of the agreement:
1. it becomes aware of any event that would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the agreement for cause if it learns that any of the certifications made in these Integrity Provisions are currently false or misleading due to intervening factual circumstances or were false or misleading or should have been known to be false or misleading when entering into the agreement; or
  2. it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best of its knowledge, any of its contractors or subcontractors are suspended or debarred by the Commonwealth, the federal

government, or any other state or governmental entity.

- v. **Default.** The Contractor's failure to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government constitutes an event of default of the agreement with the Commonwealth.
  - vi. **Suspension and Debarment List.** The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by visiting the Marketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment list tab.
- c. **Contractor Responsibilities.** During the term of this Agreement or a subcontract, as applicable, Contractor shall:
- i. maintain the highest standards of honesty and integrity.
  - ii. take no action in violation of any applicable laws, regulations, or other requirements applicable to Contractor that govern Commonwealth contracting administration.
  - iii. establish and implement a written business integrity policy that includes, at a minimum, the requirements of these Integrity Provisions as they relate to Contractor's activity with the Commonwealth and Commonwealth employees and ensure that its employees comply with the policy.
  - iv. not accept, agree to give, offer, confer, agree to confer, or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order, statement of policy, management directive, or bulletin applicable to the award of contracts or the administration of this Contract.
  - v. not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this agreement, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest. Contractor must disclose the financial interest to the Commonwealth at the date Contractor signs the Contract. The Commonwealth shall be deemed to have consented if the required disclosure is received and Contractor signs the Contract.
  - vi. comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. § 13A01 et seq.) regardless of the method of award.
  - vii. comply with the requirements of Section 1641 of the Pennsylvania Election Code (25 P.S. § 3260a) if this agreement was awarded pursuant to a Non-Solicitation Award Process.

- viii. immediately notify the Commonwealth or the Office of the State Inspector General, in writing, when Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Integrity Provisions has occurred or may occur, including, but not limited to, contact by a Commonwealth officer or employee, which, if acted upon, would violate the ethical standards.
- d. **Investigations.** If a State Inspector General investigation is initiated, Contractor shall:
- i. reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of Contractor's compliance with the terms of this or any other agreement between Contractor and the Commonwealth that results in the suspension or debarment of Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in Contractor's suspension or debarment.
  - ii. cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Integrity Provisions and make identified Contractor employees and volunteers available for interviews at reasonable times and places.
  - iii. upon the inquiry or request of an Inspector General, provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. This information may include, but is not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this agreement.
- e. **Termination.** For violation of any of these Integrity Provisions, the Commonwealth may terminate this agreement and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Integrity provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this agreement, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one does not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.
- f. **Subcontracts.** Contractor shall include these Integrity Provisions in its contracts and subcontracts with all contractors, and subcontractors providing goods or services under this agreement. The incorporation of this provision in Contractor's contracts, and subcontracts shall not create privity of contract between the Commonwealth and any contractor, or subcontractor, and no third-party beneficiaries are created by the inclusion of these provisions. If Contractor becomes aware of a contractor's or subcontractor's violation of these provision, Contractor shall use its best efforts to ensure their compliance with these provisions.

## 5. AMERICANS WITH DISABILITIES ACT

- a. **No Exclusion.** Pursuant to the Americans with Disabilities Act, 42 U.S. Code § 12101, et seq., no qualified individual with a disability may, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this agreement.
- b. **Compliance.** For all goods and services provided pursuant to this agreement, Contractor shall comply with Title II of the Americans with Disabilities Act, the "General Prohibitions Against Discrimination" set forth in 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act that apply to state and local governments.
- c. **Indemnification.** Contractor shall indemnify the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with Contractor's failure or its employee's or agent's failure to comply with the provisions of paragraph a, as determined by the Commonwealth in its sole discretion.

## 6. APPLICABLE LAW AND FORUM

This contract is governed by and must be interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania and waives any claim or defense that such forum is not convenient or proper. Any Pennsylvania court or tribunal has in personam jurisdiction over the Contractor, and the Contractor consents to service of process in any manner authorized by Pennsylvania law. This provision may not be interpreted as a waiver or limitation of the Commonwealth's rights or defenses.

## 7. RIGHT TO KNOW LAW

- a. **Applicability.** The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract to the extent that it relates to information in the possession of the Commonwealth or its agencies including PEDAs and PEAs.
- b. **Contractor Assistance.** If the Commonwealth needs Contractor's assistance in any matter arising out of the RTKL related to this Contract, the Commonwealth shall notify Contractor that it requires Contractor's assistance, and Contractor shall provide to the Commonwealth:
  - i. access to, and copies of, any document or information in Contractor's possession (Requested Information) arising out of this contract that the Commonwealth reasonably believes is a public record under the RTKL, within ten calendar days after receipt of written notification; and

- ii. any other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this contract.
- c. **Trade Secret or Confidential Proprietary Information.** If Contractor considers the Requested Information to include a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor shall notify the Commonwealth and provide, within seven calendar days of receipt of the written notice a written statement, signed by a representative of Contractor, that explains why the requested material is exempt from public disclosure under the RTKL. If the Commonwealth determines that the Requested Information is clearly not exempt from disclosure, Contractor shall provide the Requested Information to the Commonwealth within five business days of receipt of written notice of the Commonwealth's determination.
- d. **Reimbursement**
  - i. **Commonwealth Reimbursement.** If Contractor fails to provide the Requested Information and the Commonwealth is ordered to produce the Requested Information, Contractor shall reimburse the Commonwealth for any damages, penalties, or costs that the Commonwealth may incur as a result of Contractor's failure, including any statutory damages assessed against the Commonwealth.
  - ii. **Contractor Reimbursement.** The Commonwealth will reimburse Contractor for any costs that Contractor incurs as a direct result of complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL.
- e. **Challenges of Commonwealth Release.** Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, Contractor shall reimburse the Commonwealth for any legal expenses incurred by the Commonwealth as a result of the challenge, including any damages, penalties or costs that the Commonwealth may incur as a result of Contractor's legal challenge, regardless of the outcome.
- f. **Waiver.** As between the Commonwealth and Contractor, Contractor waives all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- g. **Survival.** Contractor's obligations contained in this Section survive the termination or expiration of this contract.

## **8. WORKER PROTECTION AND INVESTMENT**

Contractor shall comply with all applicable Pennsylvania state labor laws and worker safety laws including, but not limited to, the following:

- a. Construction Workplace Misclassification Act;
- b. Employment of Minors Child Labor Act;
- c. Minimum Wage Act;
- d. Prevailing Wage Act;
- e. Equal Pay Law;
- f. Employer to Pay Employment Medical Examination Fee Act;
- g. Seasonal Farm Labor Act;
- h. Wage Payment and Collection Law;
- i. Industrial Homework Law;
- j. Construction Industry Employee Verification Act;
- k. Act 102: Prohibition on Excessive Overtime in Healthcare;
- l. Apprenticeship and Training Act; and
- m. Inspection of Employment Records Law.