

SUBCONTRACT AGREEMENT

<b>Contract Number:</b>	DC-XXXX	<b>Subcontractor:</b>	XXXX
<b>Effective Date:</b>	XXXX	<b>Subcontractor Street Address:</b>	XXXX
<b>Performance Period:</b>	XX/XX/XX – XX/XX/XX	<b>Subcontractor City, State, ZIP</b>	XXXX
<b>Maximum Limiting Amount (MLA)</b>	\$XXXX	<b>Subcontractor Primary Contact Person:</b>	XXXX

This SUBCONTRACT AGREEMENT (this “Subcontract”) dated to be effective as of the “Effective Date” listed above is between Vermont Energy Investment Corporation (“VEIC”) of 20 Winooski Falls Way, 5<sup>th</sup> Floor, Winooski, Vermont 05404 and the subcontractor identified in the table above (“Subcontractor”), individually, the “Party” and collectively, the “Parties”.

**Preliminary Statement.** VEIC has a contract (the “Prime Contract”) with the District of Columbia Department of Energy and the Environment (“DOEE”) to manage the operations of the District of Columbia Sustainable Energy Utility (the “DCSEU”) and administer sustainable energy programs designed to reduce per capita energy consumption, increase renewable energy generating capacity, reduce the growth of peak electricity demand, improve the efficiency of low-income housing, reduce the growth of energy demand of the largest energy users, and increase the number of green-collar jobs in the District of Columbia (the “Programs”). VEIC desires to contract with Subcontractor to provide certain services in connection with the Programs; and Subcontractor desires to provide VEIC with such services in connection with the Programs.

**Agreement.** In consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereto agree as follows:

1. **DEFINITIONS.** Capitalized terms and acronyms used in this Subcontract will have the meanings defined in **Attachment A**, “Definitions and Acronyms.”
2. **SCOPE OF WORK.**
  - a. **Subcontractor Scope of Work.** Subcontractor agrees to provide VEIC with the Services during the Performance Period based upon the pricing described in the General Scope of Work and Pricing Provisions set forth in **Attachment B**. All Services to be provided by Subcontractor will be under the direction of the VEIC Project Manager or Work Order Manager(s).
  - b. **Changes.** Changes to the Subcontract Scope of Work may be made only by written amendment in accordance with the provisions of Sections 25 and 36.a. Subcontractor bears all risks for cost incurred by exceeding a NTE or MLA without negotiating and executing an amendment to the existing NTE or MLA before the cost overrun occurs. Notwithstanding the foregoing, VEIC reserves the exclusive right, in its sole discretion, to temporarily or permanently decrease the level or scope of all or any elements of the Subcontract Scope of Work or a Work Order at any time. In the event that VEIC determines the level or scope of all or any elements of the

Subcontract Scope of Work or a Work Order shall be decreased, it will provide notice of such decrease to Subcontractor in accordance with the provisions of Section 25 and 36.a., and such decrease in the MLA or Work Order shall be binding upon delivery. VEIC also retains rights of termination for cause and without cause as set forth in Sections 14 and 15 of this Subcontract.

- c. **Authorized Employees.** [Subcontractor shall provide a list of authorized Subcontractor employees to the Project Manager for approval within five (5) business days of signing this Subcontract. If Subcontractor's cumulative value of contracts involving District funds is less than \$300,000, Subcontractor shall list its authorized employees to provide Services under this Subcontract on **Attachment E**. If Subcontractor's cumulative value of contracts involving District funds is equal to or greater than \$300,000, Subcontractor shall complete **Attachment F**. For clarity, the \$300,000 in District funds is an aggregate of all of Subcontractor's contracts involving District funds, not only contracts with VEIC]
- d. **Updated Personnel Lists.** Before any additional employees may commence work hereunder, (i) Subcontractor must provide an updated list of the additional authorized Subcontractor employees in the formats provided in **Attachment E** or **Attachment F**, as appropriate, during the Performance Period, and (ii) the updated list must be pre-approved by the Project Manager in writing.
- e. **Monthly Progress Reports.** For each month in which Subcontractor performs any Services, Subcontractor must submit to VEIC a monthly progress report by no later than the fifth business day of each month, covering the previous month (each a "Progress Report"). Each Progress Report will be in letter form, outlining the actual Services performed since the previous Progress Report, together with any problems identified with the Services, budget, and schedule for performance, as well as remedial actions planned.
- f. **Interim Work Products.** Upon request of VEIC during the Performance Period, Subcontractor shall provide VEIC with intermediate work products as they are completed, including interim analyses, working drafts, and memoranda prepared for the Services.
- g. **Work Orders.** All Services provided to VEIC by Subcontractor under this Subcontract will be undertaken based upon one or more "Work Orders" issued by VEIC to Subcontractor using the template attached as **Attachment C** (or as otherwise modified by a Work Order amendment), which must be countersigned by an authorized representative of Subcontractor. No work may be undertaken until the Work Order has been fully executed by VEIC and Subcontractor.
- h. **Work Order Content.** Each Work Order will contain (i) the specific Subcontract Scope of Work to be performed, including a not-to-exceed (NTE) amount for the Project's capacity; (ii) the pricing provisions, including a NTE for the total incentive payment; (iii) a schedule for performance of the Services to be provided during the WO Construction Period, and the provision of electricity during the WO Operating Period, as required by the SfA Program; and (iv) other items as VEIC deems appropriate. Upon request of VEIC, Subcontractor, at its own cost and expense and without billing any such costs to VEIC, will assist VEIC in developing an individualized Subcontract Scope of Work for each Work Order.
- i. **Terms and Conditions.** Every Work Order is subject to and governed by the terms and conditions of this Subcontract, provided that each Work Order shall be a stand-alone instrument and the termination of any particular Work Order shall have no effect on any other Work Order issued hereunder. The terms of this Subcontract cannot be varied by a Work Order, and any provisions in a Work Order purporting to amend this Subcontract shall not be binding on VEIC.

In the event of any conflict between a Work Order and this Subcontract, the terms of this Subcontract shall control, except for the milestone due dates, which will be controlled by the specific Work Order.

- j. **No Guaranteed Work Orders.** Notwithstanding the Subcontract Scope of Work, any NTE and/or the MLA, nothing herein will obligate VEIC to issue any Work Orders to Subcontractor, nor does VEIC commit to providing Subcontractor with any particular level of work under this Subcontract.
- k. **NTE Amount for Work Orders.** Subcontractor billings, including all of Subcontractor's fees and reimbursable costs, shall not exceed the NTE amount of the particular Work Order(s) issued.
- l. **Modification and Substitution of Work Orders.** The Parties acknowledge that the Solar PV Projects to be developed and installed during the Work Order Construction Periods ("WO Construction Periods") and the operation and maintenance of the Solar PV projects and provision of electricity during the Work Order Operating Periods ("WO Operating Periods") are subject to change, both in the electrical Project capacity and other details of individual Projects and in the substitution of a different Project when required by the circumstances. To provide for expeditious accommodation of such changes, each Party will make reasonable efforts to communicate to the other verbally or by e-mail as soon as such Party knows that it is likely to request a change, to be followed by the following procedures as may be applicable to the requested change.
  - i. **Modification of a Work Order.** During the WO Construction Period, either Party may propose a modification to an existing Work Order by sending the proposed modification to the other Party. If VEIC proposes the modification, VEIC will send to Subcontractor a draft Amended Work Order for Subcontractor's prompt review. If Subcontractor proposes the modification, it shall send the proposed modified text to VEIC for VEIC's prompt review; VEIC will then send Subcontractor a draft Amended Work Order for Subcontractor's review and execution, unless VEIC objects to the proposed modification, in which case the Parties will cooperate in good faith in an attempt to reach agreement on the matter.
  - ii. **Substitution of a Work Order.** If, during the WO Construction Period, Subcontractor determines that a Project subject to an existing Work Order is no longer feasible for development under this Subcontract, Subcontractor shall promptly notify VEIC, request cancellation of that existing Work Order, and propose an alternative Project(s) to replace the expected Project(s) capacity of the canceled Project(s). Subcontractor's proposal for an alternative Project(s) shall include details for the new Project(s) that corresponds to the information that was included in the Work Order for the Project that is being canceled. Upon receiving such notification and request from Subcontractor, VEIC may cancel the existing Work Order and promptly send Subcontractor a draft Work Order(s) for the replacement Project(s), with the Subcontractor promptly, but in no event later than thirty (30) days, returning any incentive payments that it has received under this Subcontract for the canceled Work Order. The Parties will cooperate in good faith to expeditiously finalize and execute Work Orders for such replacement Projects.
- 3. **PERFORMANCE PERIOD.** The "Performance Period" for this Subcontract is for the duration listed on the first page of this Subcontract, unless amended or terminated earlier in accordance with the provisions of this Subcontract. Any interim dates for completion of the Services, including the due date of any deliverables, are as specified in Attachment C or Work Order(s).

Time is of the essence in undertaking all of Subcontractor's obligations under this Subcontract. The Subcontract Construction Period shall be from the date of execution of this Subcontract to the date Subcontractor has achieved Milestone 3, as defined in Attachment B, for all of its Work Orders issued under this Subcontract, not including Work Orders that were terminated by mutual agreement of the Parties in accordance with the terms of this Subcontract.

4. **DOCUMENTATION REQUIREMENTS.** Subcontractor must submit to VEIC an executed Conflict of Interest Disclosure Form attached to this Subcontract as **Attachment G**. Until the completed form is on file with VEIC, VEIC shall be under no obligation to pay any invoices submitted by Subcontractor.
5. **FEEES AND PAYMENTS.**
  - a. **Payment of Invoices.** Subcontractor will be paid in accordance with **Attachment D**, "Invoicing and Payments," and the provisions of this Section 5.
  - b. **Maximum Limiting Amount.** The Maximum Limiting Amount or MLA is the maximum amount to be paid to Subcontractor hereunder for all Services, as set forth below. It is understood that the MLA shall include all of Subcontractor's costs and expenses to perform the Services. Subcontractor shall not exceed the MLA or Work Order NTE except when overages have been approved by VEIC in a written amendment to this Subcontract or applicable Work Order in accordance with the provisions of Section 36 prior to Subcontractor exceeding the Subcontract MLA or Work Order NTE. ***SUBCONTRACTOR BEARS ALL RISKS FOR COST OVERRUNS INCURRED BY EXCEEDING THE SUBCONTRACT MLA OR WORK ORDER NTE WITHOUT NEGOTIATING AND EXECUTING A WRITTEN AMENDMENT TO THE SUBCONTRACT MLA SET FORTH IN THIS SUBCONTRACT OR WORK ORDER NTE BEFORE THE COST OVERRUNS OCCUR.***
  - c. **MLA.** The MLA for this Subcontract is stated on the first page of this Subcontract.
  - d. **MLA Reduction.** The Parties understand that VEIC cannot predict with certainty the level of utilization of any Subcontract during the Performance Period. The MLA does not represent a guaranteed payment amount to Subcontractor, nor does it serve as an implied commitment to VEIC providing Subcontractor with any particular level of work under this Subcontract. VEIC reserves its right in its sole discretion to decrease the MLA at any point during the term of this Subcontract. In the event that VEIC determines that the MLA shall be decreased, it will provide notice of such decrease to Subcontractor in accordance with the provisions of Sections 25 and 36.a, and such decrease in the MLA shall be binding upon delivery.
  - e. **Effect of Payment.** Payment by VEIC for Services or Products shall not be construed as (i) an acceptance of any Services or Products, or (ii) a waiver or limitation of any of VEIC's rights or remedies under this Subcontract or at law or in equity with regard to Services or Products that do not comply with or conform to the applicable attachment or Work Order, or other provisions in this Subcontract.
  - f. **Submission of Invoices.** Upon achievement of applicable milestones, Subcontractor shall invoice VEIC for allowable costs as specified in the applicable attachment or Work Order(s). Invoices shall be submitted as directed, and with the information required on **Attachment D**. All project-related materials, supplies, and equipment purchased by Subcontractor or its subcontractors shall be installed prior to submitting an invoice to VEIC.

- g. **Expenditures requiring prior written approval.** The following expenditures shall not be reimbursable without prior written approval from VEIC and DOEE:
- i. Any expenditures on food and beverages (alcoholic and non-alcoholic), except as part of a subcontractor's travel expenses. Alcoholic beverage shall not be reimbursable under any circumstances without prior written approval by VEIC and DOEE.
  - ii. Any expenditure on sponsorship of a third-party event or any expenditure of funds to cover part or whole of the costs of a third-party event.
  - iii. Any expenditure on parking.
  - iv. Any expenditure on rent and utilities.
- h. **Separate line items on invoices.** Subcontractor shall list any expense on food, beverage, sponsorships, parking, or rent and utilities as a separate line item on its invoices, and shall only seek reimbursement for such expenses after obtaining written approval from VEIC and DOEE.

## 6. **INDEPENDENT CONTRACTOR.**

- a. **No Employment Relationship.** Subcontractor is an independent contractor. This Subcontract does not establish an employment, partnership or joint venture relationship between VEIC and Subcontractor or VEIC and any of Subcontractor's employees or authorized subcontractors. Accordingly, all persons employed or retained by Subcontractor in connection with the performance of its obligations hereunder shall be its employees or agents or those of its authorized subcontractors or suppliers, as the case may be, and not the employees or agents of VEIC in any respect. Subcontractor assumes full responsibility for the actions and supervision of its employees and subcontractors. It is further understood that Subcontractor is free to work for other Parties during the Performance Period of this Subcontract.
- b. **No Agency; Acceptable Practice.** Subcontractor shall not represent or hold itself out to anyone as being an agent of VEIC or the District, nor indicate that Subcontractor has the right to speak for, represent or obligate VEIC or the District in any way, unless expressly authorized in writing to speak on behalf of VEIC only by an authorized representative of VEIC.
- c. **Taxes and Employee Benefits.** Subcontractor shall be obligated to pay all taxes arising from the compensation payable hereunder. Subcontractor is solely and exclusively responsible for all applicable federal, state and/or local taxes and withholdings with respect to any fees or expense reimbursements Subcontractor may receive as a result of this Subcontract, and other statutory or contractual obligations of any sort.
- d. **No Claims or Recourse.** None of Subcontractor's employees or authorized subcontractors shall have any claim against VEIC for employee benefits, including vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, unemployment insurance benefits, or other employee benefits of any kind. Subcontractor understands that Subcontractor is not a named insured or additional insured on any VEIC insurance policy. Because Subcontractor is an independent contractor, it shall not have any recourse against any of VEIC's affiliates, members, partners, joint venturers, shareholders, officers, directors, or employees for any reason, other than as set forth in the Subcontract. Further, to the extent that VEIC or any affiliate of VEIC is assessed any fines, penalties, taxes, or

costs related to the independent contractor relationship between Subcontractor and VEIC, Subcontractor shall indemnify and hold harmless VEIC, its affiliates, and the District in full.

- e. **Performance and Timing.** Other than VEIC providing overall deadlines and general production guidelines, Subcontractor will determine the times, method, details, and means of performing the Services identified in **Attachment B** of this Subcontract and Work Orders, with appropriate consultation with VEIC.
- f. **Workspace and Materials.** Subcontractor is responsible for supplying and using Subcontractor's own office space, business equipment, telephone, copier and other materials necessary to conduct Subcontractor's business and to perform the Scope of Work contemplated by this Subcontract.

## 7. **INSURANCE.**

- a. **Minimum Insurance Coverages.** Before commencing the Subcontract Scope of Work, Subcontractor will provide Certificate(s) of Insurance to VEIC and DOEE to show that the following minimum insurance coverages are in effect:
  - i. **Commercial General Liability Insurance.** Subcontractor shall provide evidence satisfactory to VEIC with respect to the Services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; bodily injury and property damage including, but not limited to: premises-operations; broad form property damage; products and completed operations; personal and advertising injury; and contractual liability and independent contractors; however, for subcontracts under \$100,000, Subcontractor may instead provide evidence satisfactory to VEIC with respect to the Services performed that it carries \$1,000,000 in Umbrella and Liability Insurance. The policy coverage will be primary and non-contributory with any other insurance maintained by the District and VEIC, and will contain a waiver of subrogation, as set forth in Section 7.f. Subcontractor will maintain completed operations coverage for five (5) years following the end of the Performance Period of this Subcontract.
  - ii. **Automobile Liability Insurance.** Subcontractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of this Subcontract. The policy shall provide a \$1,000,000 per occurrence combined single limit for bodily injury and property damage. The automobile liability insurance must be held by Subcontractor, and not its individual employees.
  - iii. **Workers' Compensation Insurance.** Subcontractor shall carry Workers' Compensation insurance, and with respect to such insurance shall comply with the statutory mandates of the District of Columbia and any other jurisdiction in which the Subcontract is performed.
  - iv. **Employer's Liability Insurance.** Subcontractor shall provide employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.
  - v. **Crime Insurance (3<sup>rd</sup> Party Indemnity).** Subcontractor shall provide a 3<sup>rd</sup> Party Crime Policy to cover the dishonest acts of Subcontractor's employees which result in a loss to the District. The policy shall provide a limit of \$1,000,000 per occurrence.

- vi. **Cyber Liability Insurance.** Subcontractor shall provide Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim and \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Subcontractor in this Subcontract and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.
  - vii. **Professional Liability Insurance (Errors and Omissions).** Subcontractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Subcontract. The policy shall provide limits of \$1,000,000 per occurrence for each wrongful act and \$2,000,000 annual aggregate.
  - viii. **Sexual/Physical Abuse and Molestation.** Subcontractor shall provide evidence satisfactory to VEIC and the Contracting Officer with respect to the Services performed under this Subcontract that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate. This insurance requirement will be considered met **if the general liability insurance includes sexual abuse and molestation coverage as a separate endorsement for the required amounts** as evidence on its Certificate of Insurance.
  - ix. **Umbrella or Excess Liability Insurance.** Subcontractor shall provide umbrella or excess liability (which is excess over employer's liability, general liability, and automobile liability) insurance as follows: \$3,000,000 per occurrence. All liability coverage must be scheduled under the umbrella and that the combined limits of the above required policies should be no less than \$3,000,000 aggregate. However, for subcontracts under \$100,000, Subcontractor may instead provide evidence satisfactory to VEIC with respect to the services performed that it carries \$1,000,000 in Umbrella and Liability Insurance.
- b. **Certificates of Insurance Requirements.** The Certificate(s) of Insurance shall name VEIC and the District as additionally insured parties as their interests may appear on all liability policies and provide a waiver of subrogation in favor of the additional insured to the fullest extent allowable under all policies and under the law. In no event will any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to and accepted by VEIC. All insurance will be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher.
- c. **Cancellation Notice; Duration.** All policies will provide that VEIC and DOEE will be given thirty (30) days prior written notice from the insurance carrier in the event the stated limit in the declarations page of the policy is reduced via endorsement or the policy is canceled prior to the expiration date shown in the certificate. It is the responsibility of Subcontractor to maintain current Certificates of Insurance on file with VEIC and DOEE through the Performance Period of this Subcontract. Subcontractor will provide VEIC and DOEE with ten (10) days prior written notice in the event of non-payment of premium. Subcontractor will maintain these insurance policies during the term of this Subcontract and for a period of five (5) years following the

Subcontract Construction Period. Notwithstanding the aforementioned, Subcontractor shall maintain Commercial General Liability Insurance for a period of five (5) years following the end of the Performance Period of this Subcontract.

- d. **Liability.** These are the required minimum insurance requirements established by the District and VEIC. However, the required minimum insurance requirements provided above will not in any way limit Subcontractor's liability under this Subcontract.
- e. **Subcontractor's Property.** Subcontractor is solely responsible for any loss or damage to its personal property and its subcontractors, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment.
- f. **Waiver of Subrogation.** To the fullest extent allowable under all policies and under law, Subcontractor and its insurers hereby waive all rights of subrogation against the District and VEIC, and each of their respective directors, officers, employees, agents and representatives. Subcontractor shall include a waiver of subrogation in favor of the District and VEIC on its Certificate of Insurance, and, if requested, shall furnish copies of endorsements as further evidence of a waiver of subrogation.
- g. **Measure of Payment.** Neither the District nor VEIC will make any separate measure or payment for the cost of any required insurance and bonds. Subcontractor will include all of the costs of such insurance and bonds in Subcontractor's fees.
- h. **Notification and Stop Work.** Subcontractor shall immediately provide VEIC with written notice in the event that its insurance coverage will be substantially changed, canceled, or not renewed, and shall immediately cease Services if its insurance coverage is cancelled or reduced below the minimum insurance coverages required under this Subcontract. Subcontractor may resume Services once Subcontractor (i) provides an updated certificate of insurance to VEIC and DOEE in compliance with the minimum insurance coverages under this Section or (ii) the Parties execute a Subcontract amendment modifying the minimum insurance requirements as outlined in Section 36.a.
- i. **Submission Requirements.** Subcontractor will submit a Certificate(s) of Insurance to VEIC and DOEE as part of the electronic execution process for this Subcontract, giving evidence of the required coverage as specified in this Section 7 prior to commencing work. Unless and until a Certificate(s) of Insurance is submitted to VEIC and DOEE that complies with the requirements of this Section 7, Subcontractor shall not commence work and Services hereunder, and VEIC shall be under no obligation to pay any invoices submitted by Subcontractor for work and Services performed before the required Certificate(s) of Insurance is submitted.
- j. **Disclosure of Information.** Subcontractor agrees that the District and VEIC may disclose the name and contact information of its insurers to any third party presenting a claim for any damages or claims resulting from or arising out of Services performed by Subcontractor, its agents, employees, or authorized subcontractors under this Subcontract.
- k. **No Warranty as to Coverages; Failure to Maintain Insurance.** No warranty is made by VEIC or the District that the coverages and limits listed herein are adequate to cover and protect the interests of Subcontractor for Subcontractor's operations. The required coverages are solely minimums that have been set to protect the interests of VEIC and the District. None of VEIC's or the District's insurance coverage will apply to Subcontractor. IN NO EVENT WILL VEIC OR

THE DISTRICT BE LIABLE TO SUBCONTRACTOR FOR SUBCONTRACTOR'S FAILURE AND/OR ITS SUBCONTRACTOR'S FAILURE TO MAINTAIN ADEQUATE INSURANCE.

1. **Broader Coverage; Higher Limits.** If Subcontractor and/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown above, VEIC and the District shall be entitled to the broader coverage and/or the higher limits maintained by the Subcontractor and its subcontractors.

## 8. REPRESENTATIONS AND WARRANTIES OF SUBCONTRACTOR.

- a. **Representations, Warranties and Covenants.** Subcontractor represents, warrants and covenants to VEIC as follows:
  - i. **Status.** That Subcontractor's full legal name is as set forth on the first page of this Subcontract. Subcontractor is either an individual or is an organization validly existing, and in good standing under the laws of the state or jurisdiction where it is formed.
  - ii. **Due Authorization.** That this Subcontract has been duly authorized, executed and delivered by Subcontractor, and constitutes a legal, valid, and binding obligation of Subcontractor, enforceable in accordance with its terms. The officer or representative of Subcontractor signing this Subcontract on behalf of Subcontractor has been duly authorized to sign the Subcontract on behalf of Subcontractor.
  - iii. **Litigation.** That there are no existing undisclosed or threatened legal actions, claims, or encumbrances, or liabilities that may adversely affect the Services or VEIC's rights hereunder.
  - iv. **Personnel Warranty.** That Subcontractor will provide highly qualified supervision and sufficient, competent personnel to perform the Services.
  - v. **Quality of the Services.** That the Services shall conform with the standards of care and practice appropriate to the nature of the Services, and that the Services shall be free from material defects, errors and omissions, and in conformity with the terms and conditions of this Subcontract. Services not conforming to these standards shall be considered defective.
  - vi. **Due Diligence.** That Subcontractor will carry out the Services with due diligence and efficiency, in a practical manner designed to promote the purposes of this Subcontract.
  - vii. **Compliance with Laws.** That its performance of the Services shall comply with all applicable laws, statutes, ordinances, rules, regulations, and orders enacted by or promulgated by federal, state, municipal or other governmental authorities, including, but not limited to, those relating to safety, employment, equal employment opportunity, the environment, taxes and withholding, labor, and the specific regulations and statutory requirements set forth in Sections 9, 10 and in **Attachment H.** This warranty shall extend to Subcontractor's agents, employees and subcontractors.
  - viii. **Licenses, Approvals and Fees.** That before starting on any part of the Services, it and its employees and subcontractors (i) shall be licensed in accordance with all applicable

laws; (ii) shall procure all necessary permits, licenses, concurrences, and other governmental approvals; (iii) shall pay all charges and fees; and (iv) shall give all notices necessary or incidental to the due and lawful prosecution of the Services. Performance of the Services shall comply with all of the terms, conditions, and limitations contained in any certificate, permit or license applicable to the Services, and Subcontractor shall immediately notify VEIC in writing if any required permit, license, concurrence, or approval expires or is suspended or revoked.

- ix. **Protection of Homeowner's Property.** That it shall adequately protect and avoid damage to the property of the homeowner(s) at the locations where the Services will be performed, including, but not limited to, ensuring that the premises where any solar panels are being installed are structurally sufficient to support the panels, and that it will be responsible for any damage or injury arising directly or indirectly from the performance of the Services.
  - x. **Protection of Adjacent Property.** That when adjacent property to a property where Services are being performed is affected or endangered, or potentially affected or endangered, by any of the Services performed under this Subcontract, it shall be the responsibility of Subcontractor, at Subcontractor's expense, to take whatever steps are necessary for the protection of the adjacent property(ies) and to notify the owner(s) of the adjacent property(ies) regarding the possible hazards.
  - xi. **Debris and Waste Materials.** That it shall keep the property(ies) at which the Services are performed clean and orderly at all times during the performance of the Services, shall remove from the work site all debris and waste materials resulting from the performance of the Services, and shall dispose of all debris and waste materials in accordance with applicable laws and regulations.
  - xii. **Bankruptcy.** That it shall provide VEIC with prompt notice, and in any event, within seven (7) days of the occurrence of any of the following: Subcontractor is adjudged bankrupt or insolvent, files a petition to take advantage of any bankruptcy or insolvency law, makes a general assignment for the benefit of its creditors; and/or a trustee or receiver is appointed for Subcontractor or for any of Subcontractor's property.
- b. **Breach of Warranty.** If any of the Services are defective or otherwise breach the warranties made in this Subcontract, then VEIC may require correction or re-performance of same to VEIC's satisfaction without further cost to VEIC, and Subcontractor shall be liable for all damages caused to VEIC, DOEE, and any recipient of the output of a solar PV system installed under this Subcontract. If such required correction or re-performance is not properly or timely performed, then VEIC may terminate Subcontractor's performance, have such Services performed by a third party, and, in addition to any other remedies VEIC may have, deduct from payments then or thereafter due to Subcontractor, all costs and expenses thereby incurred by VEIC, including internal costs and expenses incurred pursuing the remedies provided for in this Section.
- c. **Payment or Acceptance.** Neither final payment nor acceptance of the work shall relieve Subcontractor of responsibility for failure to meet the warranties made in the Subcontract.

9. **SUBCONTRACTOR REPRESENTATION AND COVENANTS REGARDING EMPLOYEES.**

- a. **Certified Business Enterprises.** VEIC is required under the Prime Contract to be a signatory to the CERTIFIED BUSINESS ENTERPRISE PARTICIPATION AND UTILIZATION AGREEMENT, Article I, Section 1.1 Utilization of Certified Business Enterprises, with the DSLBD (the “CBE Agreement”). In order to ensure that VEIC meets its requirements under the CBE Agreement, Subcontractor must certify on the signature page hereto as to its CBE status. In addition, if Subcontractor has contracts with VEIC totaling in excess of five thousand dollars (\$5,000.00), Subcontractor must comply with all CBE Agreement compliance reporting requirements as provided by VEIC from time to time (**Attachments K and L**), unless compliance has been waived in writing by VEIC. Failure to submit CBE compliance reporting will result in ***PAYMENTS HEREUNDER BEING WITHHELD BY VEIC UNTIL SUBCONTRACTOR IS IN COMPLIANCE.***
- b. **First Source Employment Agent.** All Subcontractors awarded contracts equal to or in excess of three hundred thousand dollars (\$300,000.00) where the funds received are derived from District funds must sign the First Source Employment Agreement and Forms attached hereto as **Attachment F** and comply with all requirements therein. ***FAILURE TO EXECUTE THE FIRST SOURCE EMPLOYMENT AGREEMENT AND FORMS OR COMPLY WITH ALL REQUIREMENTS THEREIN SHALL RESULT IN PAYMENTS HEREUNDER BEING WITHHELD BY VEIC UNTIL SUBCONTRACTOR IS IN COMPLIANCE.***
- c. **Compliance Training.** If Subcontractor is required to sign the First Source Employment Agreement and Forms, Subcontractor shall attend Compliance Training, and shall submit Monthly Contracting and Employment Compliance Reports to VEIC and VEIC’s designated compliance advisor as requested by VEIC for each month in which it receives funds or is under contract to perform the Services. ***FAILURE TO ATTEND COMPLIANCE TRAINING AND/OR SUBMIT SUCH REPORTS SHALL RESULT IN PAYMENTS HEREUNDER BEING WITHHELD BY VEIC UNTIL SUBCONTRACTOR IS IN COMPLIANCE.***
- d. **Living Wage.** Subcontractor covenants and agrees that for the duration of the Performance Period:
  - i. All new employees or individuals hired after October 1, 2019 to perform the primary functions of this Subcontract will be paid at or above the District’s Living Wage. For purposes of this clause, “primary functions” will include, but are not limited to, work activity that reflects the primary purpose of this Subcontract (e.g., onsite installation work).
  - ii. Subcontractor will supply any and all data requested by VEIC in response to compliance with local or federal funding on the Programs in a timely manner based on the DCSEU’s compliance reporting schedule. ***FAILURE TO PROVIDE SUCH DATA MAY RESULT IN VEIC WITHHOLDING PAYMENT HEREUNDER, AND/OR TERMINATING THIS SUBCONTRACT AS PROVIDED HEREIN.***

10. **APPLICABLE FEDERAL AND DISTRICT REGULATIONS AND STATUTORY REQUIREMENTS.**

- a. **Federal and District Laws.** Subcontractor shall comply with all federal and District of Columbia regulatory and statutory requirements, as amended, applicable to this Subcontract. A summary list of these regulations and requirements is attached hereto as **Attachment H**.

Additional regulations and requirements may apply to this Subcontract from time to time, and upon learning of any such requirement, VEIC may notify Subcontractor in writing of same, upon which Subcontractor receiving such notification, such requirement shall be incorporated into this Subcontract without the need for Subcontractor's consent to the same.

- b. **Effect of Noncompliance.** *FAILURE OF SUBCONTRACTOR TO COMPLY WITH ANY APPLICABLE REGULATION MAY BE THE BASIS FOR VEIC TO WITHHOLD PAYMENTS DUE UNDER THE TERMS OF THIS SUBCONTRACT AND/OR FOR TERMINATION OF THIS SUBCONTRACT BY VEIC.*

## 11. INSPECTIONS.

- a. Subcontractor shall control and direct the details of the Services rendered and installation of any Products as part of the Programs, when the foregoing is part of the Subcontract Scope of Work or the Work Order(s). VEIC seeks to fulfill a public function in undertaking the Programs and recognizes that performance of the Services is dependent upon the specialized skills and training of Subcontractor. However, the Services must meet the approval of VEIC and DOEE and shall be subject to their rights of inspection and rights to secure satisfactory completion of the Services and this Subcontract. Subcontractor, as requested, shall report directly to the authorized VEIC representative or his/her designee regarding all of Subcontractor's activities hereunder.
- b. VEIC and DOEE have the right to inspect and test all Services called for by this Subcontract at reasonable times and places during the term of this Subcontract. VEIC and DOEE will perform inspections and tests in a manner that will not unduly delay the work. If VEIC or DOEE performs inspections or tests on the premises of the Subcontractor or its subcontractor(s), Subcontractor shall furnish, without additional charge, all reasonable facilities and assistance for the safety and convenient performance of these duties. For purposes of this Subcontract, if the Subcontract Scope of Work and/or Work Order requires entry on to property of third persons, Subcontractor acknowledges and agrees that the Authorized VEIC Representative, the CA and CO, and their designees shall have the same rights to access the premises of any location where Services are performed in order to complete inspections. In the event that Subcontractor has not entered into a lease, power purchase agreement or other agreement with such third parties that allows such access, Subcontractor shall obtain an agreement from such third party allowing the authorized VEIC representative, the CA and CO, and their designees to access the property for up to five (5) years after completion of the Services as required by this Section 11.

## 12. SETTLEMENT OF DISPUTES. Any dispute arising out of or relating to this Subcontract will be resolved in accordance with the procedures specified herein, which will be the sole and exclusive procedures for the resolution of any such disputes.

- a. **Negotiation.** The Parties will attempt to resolve promptly any dispute, claim or controversy arising out of or relating to this Subcontract, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of the agreement to arbitrate, (collectively, a "dispute") by negotiation between representatives who have the authority to settle the dispute. For VEIC, the Director of the DCSEU or the General Manager, Mid-Atlantic Region may be contacted. If the dispute involves either of those two parties, the Chief Executive Officer of VEIC may be contacted. Any Party may give the other Party written notice of any dispute not resolved in the normal course of business pursuant to this subsection. Within fifteen (15) calendar days after delivery of the notice, the receiving Party will submit to the notifying Party a written response. The notice and response will include (a) a statement of that Party's position and a summary of arguments supporting that position, and (b)

the name and title of the representative of that Party and of any other person who will accompany the representative. Within fifteen (15) calendar days after delivery of the initial notice, the representatives of both Parties will meet at a mutually acceptable time and place to attempt to resolve the dispute. All negotiations pursuant to this provision are confidential and will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

- b. **Mediation**. Any dispute that has not been resolved by negotiation within forty-five (45) calendar days after initiation of the negotiation shall be determined first by mediation. The Parties shall choose an independent third-party mediator by mutual agreement and consent, which shall not be unreasonably withheld. When selecting a mediator, the Parties shall consider the qualified mediators of the District of Columbia Office of Administrative Hearings. The mediation shall be administered by the third-party mediator, and a resolution on the dispute may be entered in any court having jurisdiction. This clause shall not preclude the Parties from seeking provisional remedies in aid of mediation from a court of appropriate jurisdiction
- c. **Arbitration**. Any dispute that has not been resolved by negotiation or mediation will be finally resolved by arbitration under the Rules of Conciliation and Arbitration of the American Arbitration Association by one or more arbitrators appointed in accordance with said Rules. The arbitration will take place in the District of Columbia, unless related to CBEs, in which case arbitration will follow the guidelines of the District of Columbia CBE Participation and Utilization agreement. The resulting award will be final and binding on the Parties and will be in lieu of any other remedy.
- d. **Injunctive Relief**. Nothing herein shall limit either Party's right to seek injunctive relief from a court of competent jurisdiction prior to and during the pendency of negotiations or arbitration under this Section 12.
- e. **Labor Disputes**. Disputes arising out of the labor standards provisions of this Subcontract shall not be subject to the foregoing clauses of this Section 12. All such labor disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 Code of Federal Regulations ("CFR") parts 5, 6, and 7. Disputes within the meaning of this Subsection 12.e. include disputes between Subcontractor (or any of its subcontractors) and VEIC, DOEE, the U.S. Department of Labor, or their respective employees or representatives.

### 13. INDEMNIFICATION.

- a. **Obligation to Indemnify**.
  - i. **General Indemnification**. Subcontractor agrees to defend, indemnify, and hold harmless VEIC, the District, and their respective officers, agencies, departments, agents, and employees (collectively the "Indemnitees") from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including costs of defense and attorneys' fees), resulting from, arising out of, or in any way connected to activities or Services performed by Subcontractor, Subcontractor's officers, employees, agents, subcontractors, or any other person acting for or by permission of Subcontractor in performance of this Subcontract. This indemnification clause covers, but is not limited to, any damage caused to the property of the homeowner(s) at the locations where Services are performed as well as to any adjacent property. Subcontractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Subcontract. Subcontractor will also repair or replace any Indemnitees' property that is damaged by

Subcontractor, Subcontractor's officers, employees, agents, subcontractors, or any other person acting for or by permission of Subcontractor while performing work hereunder.

- ii. **Intellectual Property Indemnification.** Subcontractor agrees to defend, indemnify, and hold harmless the Indemnitees from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including costs of defense and attorneys' fees), resulting from, arising out of, or in any way connected to any alleged: (a) patent, copyright or trademark infringement; (b) unlawful disclosure, use or misappropriation of trade secrets; or (c) any other violation of any third party intellectual property right. If any injunction or restraining order is issued, Subcontractor will, at its expense, either obtain for Indemnitees the right to continue to use and commercialize all allegedly infringing services and work product and the allegedly misappropriated trade secrets, or replace or modify the Services and work product to make them non-infringing.
- b. **Effect of Insurance.** The indemnification obligation under this Section 13 will not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Subcontractor or any party acting under Subcontractor's direction.
- c. **Notice.** VEIC agrees to give Subcontractor prompt written notice of any claim of indemnity under this Section 13, but in any event not later than thirty (30) days after VEIC is made aware of such claim.
- d. **Control of Defense and Settlement.** Additionally, Subcontractor will have the right and sole authority to control the defense or settlement of any claims, provided that no contribution or action by the Indemnitees is required in connection with the settlement.
- e. **Holdback.** Monies due or to become due to Subcontractor under this Subcontract may be retained by VEIC or the District as necessary to satisfy any outstanding claim the Indemnitees may have against Subcontractor.

#### 14. **TERMINATION FOR CAUSE.**

- a. **Event of Default.** Any failure of Subcontractor to comply with the terms and conditions of this Subcontract and the Attachments hereto, or any action(s) or inaction that materially threatens Subcontractor's ability to perform the Services and fulfill the objectives of this Subcontract, shall constitute an "Event of Default" under this Subcontract. Upon an Event of Default, VEIC may, by written notice to Subcontractor, terminate this Subcontract or any applicable Work Order issued pursuant to this Subcontract for cause if such breach is not cured within the applicable cure period (if any). Subcontractor shall promptly repay to VEIC all incentive payments paid to Subcontractor for the Work Order(s) terminated for an Event of Default. By way of examples only, and without limitation, the following shall constitute Events of Default under this Subcontract:
  - i. Failure of Subcontractor to perform the Services, install the Products, and/or fulfill any other obligation as set forth in the applicable attachment(s) or Work Order, or any authorized amendment to such attachment(s) or Work Order(s);

- ii. Failure of Subcontractor to timely perform its obligations pursuant to the applicable attachment(s), Work Order(s), or any authorized amendment to such attachment(s) or Work Order(s);
  - iii. Material breach by Subcontractor of any representation or warranty set forth in this Subcontract;
  - iv. Subcontractor fails at any time during the Performance Period to: (i) be licensed or maintain its license(s) in accordance with all applicable laws of the District of Columbia and its state of incorporation/organization; (ii) procure all necessary permits, approvals, and consents necessary to lawfully perform the Services; or (iii) ensure that performance of the Services complies with all of the terms, conditions, and limitations contained in any certificate, permit, or license applicable to and obtained in connection with the Services;
  - v. Subcontractor engages in behavior that is dishonest, fraudulent, reckless, or consistently unresponsive, or gives rise to a conflict of interest inconsistent with its obligations under this Subcontract;
  - vi. Subcontractor fails to respond within a reasonable amount of time to, or to reasonably cooperate with, VEIC's reasonable and material questions, demands, or requests to modify or amend attachments or Work Orders;
  - vii. Subcontractor fails to correct any nonconforming Services in a reasonable amount of time, or fails to reasonably cooperate or respond to reasonable requests to correct performance, management, or facilitation of this Subcontract when such actions are jeopardizing completion of the Services and fulfillment of this Subcontract's objectives; and/or
  - viii. Subcontractor is adjudged bankrupt or insolvent, or files a petition to take advantage of any bankruptcy or insolvency law, makes a general assignment for the benefit of its creditors, and/or a trustee or receiver is appointed for Subcontractor or for any of Subcontractor's property.
- b. **Termination**. VEIC may terminate this Subcontract or a Work Order issued under this Subcontract for cause:
- i. In the cases of an Event of Default pursuant to Sections 14.a.i., ii., iii, vi, and/or vii, if Subcontractor does not cure such Event of Default within fourteen (14) calendar days from receipt of notification of such Event of Default from VEIC, or sooner (at VEIC's election) if public safety or violations of the law, rules or other regulations are involved; or
  - ii. In the cases of an Event of Default pursuant to Sections 14.a.iv, v, and/or viii, immediately upon providing Subcontractor notice of termination.

Termination for cause shall not relieve Subcontractor from liability for all damages caused to VEIC, DOEE, and any recipient of the output of a solar PV system installed under this Subcontract.

- c. **Close-Out of Services**. In the event of termination of this Subcontract or of a Work Order pursuant to this Section 14, Subcontractor will perform such additional work as is necessary for the orderly filing of documents with VEIC and DOEE to allow for the efficient close out of the

Services. Such work will only pertain to the actual Services and does not include any administrative tasks, such as preparing final invoices. The additional time for filing and closing will not exceed five (5) percent of the total time expended on the undisputed portion of the completed portion of the Services prior to the effective date of termination. Subcontractor will only be compensated for undisputed portions of the completed portion of the work actually performed prior to the effective date of termination, plus the work required for filing and closing. However, no payments for undisputed services or filing and close-out work will be made until and unless VEIC receives payment for the Services from DOEE.

- d. **Transfer of Work**. In the event of termination of this Subcontract or of a Work Order(s) pursuant to this Section 14, Subcontractor will turn over to VEIC all work completed to date, including any Products and other materials and equipment purchased to complete the Services; all paperwork and related documents; and all other Confidential Information provided to Subcontractor by VEIC, DOEE, or any of VEIC's customers pursuant to this Subcontract. Subcontractor shall return to VEIC all incentive payments, if any, made to Subcontractor to date within thirty (30) calendar days following the date of termination.
- e. **Final Invoice**. Subcontractor will render a final invoice and supporting information as required on **Attachment D** for Services to VEIC by the 5th business day of the month following the date of termination. If such final invoice is approved by VEIC, VEIC will pay the invoice in accordance with the provisions set forth on **Attachment D**.

**15. TERMINATION WITHOUT CAUSE.**

- a. **VEIC Termination**. Notwithstanding any other provision of this Subcontract, VEIC may terminate this Subcontract, or any Work Order issued under this Subcontract, without cause by giving thirty (30) calendar days advance written notice thereof to Subcontractor. No termination of a Work Order pursuant to this Section 15 shall effect the termination of any other Work Order.
- b. **Effect of Termination**. Upon termination of this Subcontract or of a Work Order(s) pursuant to this Section 15, Subcontractor will have no further obligation to provide Services to VEIC pursuant to this Subcontract or the affected Work Order(s), respectively, other than to submit all required reports for Services provided. Except for payment of fees to Subcontractor for services rendered prior to the date of termination, VEIC will have no further obligation to pay Subcontractor.
- c. **Final Invoice**. Subcontractor will render a final invoice and supporting information as required in **Attachment D** for Services provided to VEIC by the 5th business day of the month following the date of termination. If such final invoice is approved by VEIC, VEIC will pay the invoice in accordance with the provisions set forth in **Attachment D**.

**16. TERMINATION OF PRIME CONTRACT.**

- a. **Assignment of Subcontract**. If the Prime Contract expires or is terminated by VEIC or DOEE for any reason, then pursuant to Section 24, upon notice to Subcontractor, VEIC shall assign its rights and delegate the performance of its obligations to a third party ("Third Party") selected by DOEE.
- b. **Effect of Termination**. Upon assignment of this Subcontract pursuant to this Section, Subcontractor will have no further obligation to provide Services to VEIC and shall provide Services to the Third Party pursuant to this Subcontract. VEIC will have no further obligation to

pay Subcontractor except for payment of fees to Subcontractor for attainment of the milestones as specified in **Attachment B** for work completed before the date of termination of the Prime Contract. Any unpaid fees will only be disbursed to Subcontractor if VEIC receives payment of these fees from DOEE.

- c. **Final Invoice.** Subcontractor will render a final invoice and supporting information as required in **Attachment D** for Services to VEIC by the 5th business day of the month following the date of termination of the Prime Contract. If approved by VEIC, VEIC will pay the invoice in accordance with the provisions set forth in **Attachment D**.

## 17. STOP WORK ORDER.

- a. **Notice.** VEIC or DOEE may, at any time during the Performance Period, by oral or written notice to Subcontractor, require Subcontractor to stop all or any part of the Services to be performed pursuant to the Prime Contract or this Subcontract for reasons of public safety, to investigate an alleged violation of safety or other laws, rules or regulations, availability of funding, or due to concerns regarding performance of the Services. To the extent feasible in the circumstances, if oral notice is provided by VEIC, VEIC shall follow-up with formal written notice.
- b. **Cessation of Work.** Upon oral or written notice by VEIC to Subcontractor to stop all or any part of the Services, Subcontractor shall comply with the terms of such notice by immediately ceasing performance of the Services and any installation of Products until further notice, and by notifying its officers, employees, agents, subcontractors, or any other person acting for or by permission of Subcontractor to stop all work until further notice. Subcontractor will comply with all subsequent instructions provided by VEIC or directly by DOEE.
- c. **Resumption of Work.** VEIC will endeavor in good faith to lift the stop work order and either direct Subcontractor to resume work, or to provide a notice of Termination for Cause requiring cure (if any) or a notice of Termination for Convenience at the earliest available opportunity once the issue is addressed.

## 18. CONFIDENTIALITY OF DATA, INFORMATION, AND DOCUMENTS.

- a. **Acknowledgement of Confidential Information.** Subcontractor agrees that all information communicated to it with respect to the Services to be performed under this Subcontract is Confidential Information, including any information gained by Subcontractor by reason of its association with VEIC, VEIC customers, or DOEE.
- b. **Mailing Lists.** Subcontractor expressly agrees that it will not use VEIC's mailing lists other than for lawful purposes necessary for performance of the Services hereunder.
- c. **Protective Agreement.** Contemporaneously with execution of this Subcontract, Subcontractor shall read and abide by the terms and conditions of **Attachment I**, the General Confidentiality Guidelines Memo, and shall cause its authorized representative to execute the same. The authorized representative of Subcontractor shall also execute the Protective Agreement included as **Attachment I2**.
- d. **Compliance.** Subcontractor will be responsible for compliance with this Section by Subcontractor's employees, agents, and authorized subcontractors, and shall include this confidentiality obligation contained in this Section 18 in any subcontracts. Subcontractor will

require any subcontractors to sign confidentiality agreements with substantially the same terms as the Protective Agreement attached as **Attachment I2**.

- e. **Notice of Immunity from Liability for Confidential Disclosure of a Trade Secret to the Government or in a Court Filing.** Federal law requires VEIC to notify Subcontractor that there are a few limited situations in which Subcontractor will not be liable for the confidential disclosure of a trade secret to the government or in a court filing. First, an individual shall not be criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Second, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding if the individual (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.
19. **POLICY ON POLITICAL ACTIVITY.** Subcontractor has reviewed VEIC's policy on Political Activity, and agrees to comply with said policy.
20. **OWNERSHIP OF DATA, INFORMATION, AND DOCUMENTS.** All reports, studies, plans, specifications, data, and other information developed, written, or prepared by Subcontractor pursuant to this Subcontract will be delivered to and become the property of DOEE (or VEIC when applicable). Subcontractor will not use VEIC's or DOEE's name, logo, identity, any affiliation, or the service mark and any related logo, without VEIC's and DOEE's prior written consent. Whenever any data, including computer software, are to be obtained from Subcontractor under this Subcontract, the terms contained in **Attachment J**, "Rights in Data" will apply to this Subcontract.
21. **COMPETITIVE ACTIVITIES.** During the Performance Period, Subcontractor will not, directly or indirectly, either as an employee, employer, consultant, agent, principal, partner, stockholder, corporate officer, director, or in any other individual or representative capacity, engage or participate in any competitive activity relating to the Programs or activity to which this Subcontract relates.
22. **MAINTENANCE OF RECORDS.** Subcontractor will keep, maintain, and preserve at its principal office throughout the term of this Subcontract, and for a period of three (3) years after the end of this Subcontract, full and detailed books, accounts, and records pertaining to the performance of the Subcontract, including without limitation, all bills, invoices, payrolls, subcontracting efforts, and other data evidencing, or in any material way related to, the direct and indirect costs and expenses incurred by Subcontractor in the course of such performance. However, if any litigation, claim, or audit is started before the expiration of the three-year period, the records will be retained until all litigation, claims, or audit finding involving the records has been resolved if the litigation, claim, or audit finding is not resolved within the three-year period.
23. **AUDIT ADJUSTMENT.** Any payment made under the Subcontract will be subject to retroactive reduction for amounts included therein which are found by DOEE, on the basis of any audit of VEIC or Subcontractor by an agency of the United States or the District, not to constitute an allowable charge or cost hereunder.
24. **SUBCONTRACT; ASSIGNMENT AND DELEGATION.** Subcontractor shall not subcontract this Subcontract, nor assign any of its rights or delegate the performance of any of its

duties hereunder, without the prior written consent of VEIC, which VEIC may grant or deny in its sole and absolute discretion. If authorized by VEIC, Subcontractor shall provide a revised list of its Authorized Employees and First Source Employment Agreement and Forms (**Attachment E** or **Attachment F**, as appropriate) and a copy of its subcontract with its lower-tier subcontractor(s) within fourteen (14) calendar days of execution. VEIC's consent shall not serve to release Subcontractor from any obligations under the Subcontract. VEIC in its sole and absolute discretion may assign its rights and may delegate the performance of its obligations hereunder upon written notice to Subcontractor. Any subcontract, assignment, or delegation in violation of this Section 24 shall be null and void.

**25. PRIMARY CONTACTS AND NOTICES**

- a. VEIC's primary contact for purposes of the relationship between the Parties and for compliance with the terms and conditions of this Subcontract is the Project Manager shown below. VEIC will also separately designate a Work Order Manager(s) on a Work Order who will be responsible for the day-to-day oversight of the Work Order Content pursuant to Section 2.h. above. Subcontractor's primary contact is shown below.
- b. VEIC and Subcontractor may change the name and/or contact information for their primary contact by providing written notice to the other Party. If Subcontractor's physical or mailing address changes, notice of the change shall be provided to VEIC as soon as possible, but no later than five (5) business days after the change.
- c. Any notice or request required or permitted by this Subcontract will be in writing to the appropriate primary contact. Such notice or request will be deemed to be duly made upon delivery by hand, certified mail, or electronic mail to the other Party at such address specified below or at such other address specified in writing by the other Party.

FOR VEIC:

Theodore Trabue, Jr.  
DCSEU  
80 M St., SE  
Washington, DC 20003  
Telephone: 202-450-2222 x 4806  
Email: ttrabue@dcseu.com

FOR SUBCONTRACTOR:

Subcontractor Name  
Company  
Address  
Telephone:  
Email:

**26. GOVERNING LAW.** This Subcontract is made and shall be construed under the laws of the District of Columbia and applicable federal laws without regard to any conflicts or choice of law provisions thereof, including any arbitration pursuant to Section 12.c. above. In the event litigation is filed, including obtaining injunctive relief pursuant to Section 12.d. above, it is agreed by and between the Parties that the litigation shall take place in a court of competent jurisdiction in the District of Columbia, that each Party consents to the jurisdiction of such court, and agrees to service of process for any such action if made pursuant to the notice provision in Section 25 of this Subcontract.

**27. ATTORNEYS' FEES.** In the event that either Party brings a court action, suit, or proceeding to enforce this Subcontract, or in the event of an arbitration to resolve a dispute pursuant to Subsection 12.c. above, the prevailing Party shall be entitled to reimbursement by the other Party of its reasonable costs, expenses, and attorneys' fees in addition to any other relief granted.

**28. SURVIVAL.** Any terms of this Subcontract and the attachments which by their nature survive beyond its expiration or termination shall remain in effect until fulfilled and shall apply to the respective successors and permitted assigns of the Parties. By way of example and not limitation, Sections 6, 7, 8, 10, 12, 13, 14.c., 14.d., 14.e., 15.b., 15.c., 16.c., 18, 19, 20, 22, and 23 and Attachments I and I2 specifically shall survive the expiration or termination of this Subcontract.

**29. FORCE MAJEURE** Neither party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Subcontract, for any failure or delay in fulfilling or performing any term of this Subcontract, when and to the extent such failure or delay is caused by or results from acts beyond the control and without fault or negligence of the impacted party ("Impacted Party") including, without limitation, the following force majeure events ("Force Majeure Events"): acts of God or of the public enemy, acts of the District or federal government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine or public health restrictions, strikes, or unusually severe weather, but in every case the failure to perform must be beyond the control and without fault or negligence of the Impacted Party. The Impacted Party shall give notice within five (5) days of the Force Majeure Event to the other Party stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

**30. ATTACHMENTS.** All attachments to this Subcontract are incorporated by reference and made a part of this Subcontract.

**31. SEVERABILITY; HEADINGS.** If any term or provision of this Subcontract will be held to be invalid or unenforceable, the remaining terms and provisions of this Subcontract will be valid and enforceable to the fullest extent permitted by law. The headings and subheadings contained herein are for convenience only and shall not be deemed to control over the plain language of the Subcontract.

**32. NONWAIVER.** The failure of a Party to enforce any one or more of the provisions of this Subcontract will not be construed to be a waiver thereof, nor will such failure affect the validity of the Subcontract, either Party's obligations hereunder, or the right of either Party to enforce any provision of the Subcontract.

**33. COUNTERPARTS; ELECTRONIC SIGNATURE AUTHORIZATION.** This Subcontract, any amendment to this Subcontract, and/or any attachment or Work Order may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original, and all of which shall constitute the same instrument. Signatures of either Party transmitted by email, or other electronic transmission shall constitute effective execution and delivery of this Subcontract, any amendment to this Subcontract, and/or any attachment or Work Order, and shall be deemed to be original signatures for all purposes. Each Party hereby consents to signature by such means.

**34. ENTIRE AGREEMENT.** This Subcontract, together with all the attachments and including duly authorized Work Orders, if any, constitutes the entire agreement between VEIC and Subcontractor and supersedes all prior communications, representations, agreements, and understandings, whether oral or written, made by either of them concerning the subject hereof, expressly including but not limited to subcontracts for prior fiscal years.

**35. DOCUMENT PRODUCTION.** Within the project schedule established in the applicable attachment or Work Order, Subcontractor agrees to provide VEIC final draft documents in "print-ready" form. All tables and/or links to spreadsheets will be completely filled out with final data. All document formatting will be consistent with the guidelines set forth on the applicable attachment or Work Order, or

as provided by VEIC. VEIC will not consider incomplete tables or data, nor format and style inconsistent with the applicable attachment or Work Order, to meet the Subcontractor's requirements as established in such attachment or Work Order.

**36. AMENDMENTS AND MODIFICATIONS.**

- a. **General.** No modifications, amendments, or extensions to the terms and conditions of this Subcontract, any attachments, including the Scope of Work or Work Order, will be effective unless reduced to writing and signed by a duly authorized representative of VEIC and Subcontractor, except as provided herein with respect to VEIC's ability to reduce the Scope of Work, Subcontract MLA, Work Order NTE, or certain other changes to the Subcontract without Subcontractor's consent.
- b. **Modified Prime Contract Requirements.** Subcontractor acknowledges that the Prime Contract may be modified such that additional or modified requirements may need to be reflected in this Subcontract. In such event, VEIC will propose an amendment to this Subcontract to reflect the additional or modified Prime Contract terms and conditions. If Subcontractor fails to execute the proposed Subcontract amendment within the time period requested by VEIC, Subcontractor understands and accepts that VEIC may decide not to issue any new Work Orders to Subcontractor and may terminate this Subcontract immediately, in which case the provisions of Sections 15.b. and 15.c. above shall apply.

**[Signature pages follow.]**

IN WITNESS WHEREOF, Subcontractor and VEIC have caused this Subcontract to be executed as of the Effective Date.

**SUBCONTRACTOR**

**VERMONT ENERGY INVESTMENT CORPORATION**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**[Is SUBCONTRACTOR a CBE? No**

If Yes:

CBE Number:

Expiration Date:

Preference Points:

Ward:

I attest that this information is accurate and valid. Also, I will immediately inform the DCSEU of any changes to our organization's CBE status. Please separately submit via email a copy of your CBE certification to [proposals@dcseu.com](mailto:proposals@dcseu.com).

**SUBCONTRACTOR**

\_\_\_\_\_  
**Print Name**

By: \_\_\_\_\_  
**Signature** ]

**List of Attachments**

- Attachment A**      Definitions and Acronyms
- Attachment B**      General Scope of Work and Pricing Provisions
- Attachment C**      Sample Work Order Template
- Attachment D**      Invoicing and Payments
- Attachment E**      Authorized Employees (NOTE: not required if **Attachment F** is included)
- Attachment F**      First Source Employment Agreement and Forms  
(Signature Conditionally Required)
- Attachment G**      DCSEU Conflict of Interest Policy and Disclosure Form
- Attachment H**      Special Requirements
- Attachment I**      General Confidentiality Guidelines Memo (Signature Required)
- Attachment I2**      Protective Agreement (Signatures Required)
- Attachment J**      Rights in Data
- Attachment K**      Monthly CBE Spend Report
- Attachment L**      Quarterly Vendor Verification Form
- Attachment M**      Approved form of Homeowner Agreement

The following additional attachments are incorporated into this Subcontract by reference:

<b>Attachment Letter</b>	<b>Document</b>
<b>N</b>	U.S. Department of Labor Wage Determination No. 2015-4281 Revision No. 4, dated December 30, 2016
<b>O</b>	Way to Work Amendment Act of 2006 - Living Wage Notice, <a href="https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/OLLE%20Living%20Wage%20Notice%202017%20final%2011-17-16.pdf">https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/OLLE%20Living%20Wage%20Notice%202017%20final%2011-17-16.pdf</a>
<b>P</b>	Way to Work Amendment Act of 2006 – Fact Sheet <a href="https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/OLLE%20Living%20Wage%202017%20Rate%20Notice.pdf">https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/OLLE%20Living%20Wage%202017%20Rate%20Notice.pdf</a>

## Attachment A

### DEFINITIONS AND ACRONYMS

“Approval to Install” or “ATI” means PEPCO approval to install the project (Part I)

“CAEA” means Clean and Affordable Energy Act of 2008, D.C. Code § 8-1773.01 *et seq.*

“CBE” means a Certified Business Enterprise under the DSLBD’s business certification program. The DSLBD maintains a database of all certified local, small, and disadvantaged business enterprises that are deemed CBEs. Businesses with CBE certification will receive preferred procurement and contracting opportunities.

“Commercial Operation” means a Project funded by this Subcontract is fully constructed, generates electric energy, and the interconnection to the utility’s electric grid has been authorized and is functioning with the utility.

“Commercial Operation Date” means the date on which a newly-installed Project funded by this Subcontract achieves Commercial Operation.

“Contract Administrator” or “CA” means the DOEE representative responsible for general administration of the Prime Contract.

“Contracting Officer” or CO” means the Contracting Officer for the Prime Contract.

“Confidential Information” has the meanings set forth in the General Confidentiality Guidelines Memo and Protective Agreement included as Attachments I and I2.

“DCSEU” or “SEU” has the meaning set forth in the Preliminary Statement.

“DOEE” has the meaning set forth in the Preliminary Statement.

“DSLBD” means the District Department of Small and Local Business Development.

“District” means the Government of the District of Columbia.

“FTE” or “full-time equivalent” means a total of 1,950 labor hours worked in support of this Subcontract and equals one full-time equivalent of a year-round job, i.e., 1 FTE = 1,950 work-hours.

“Living Wage” means a minimum hourly wage as determined by the District Department of Employment Services in accordance with the “Living Wage Act of 2006,” Title I of D.C. Law 16-18 (D.C. Official Code §§2-220.01-.11).

“Maximum Limiting Amount” or “MLA” has the meaning set forth in Section 5.b. of this Subcontract.

“Net Energy Metering” means a renewable energy system capable of measuring the difference between the electricity supplied to an eligible customer-generator from electric grid and the electricity generated and fed back to the electric grid by the eligible customer-generator (D.C. Official Code § 34-1501(21)).

“Net Metered System” means a PV System that is capable of Net Energy Metering.

“Not-to-Exceed” or “NTE” has the meaning set forth in Section 2.h of this Subcontract.

“PEPCO” means the Potomac Electric Power Company.

“Performance Period” has the meaning set forth in Section 3 of this Subcontract.

“Permission to Operate” or “PTO” means PEPCO Approval of Interconnection Application Agreement Part II.

“Photovoltaic System” or “PV System” or “Project” means a solar power system that generates electricity, designed, installed, and interconnected as a residential Net Metered System.

“Prime Contract” has the meaning set forth in the Preliminary Statement.

“Production Year” means a particular calendar year of the 20-years of Commercial Operation from the Commercial Operation Date that a Project funded by this Subcontract must operate and generate electricity for the benefit of a low-income District of Columbia property owner or tenant.

“Products” means such products, equipment, and materials which are installed, furnished, or supplied by Subcontractor to third party users as part of the Services.

“Progress Report” shall have the meaning set forth in Section 2.e. of this Subcontract.

“Programs” has the meaning set forth in the Preliminary Statement.

“Project Manager” means the individual responsible for managing this Subcontract on behalf of VEIC. Until further notice the Project Manager is the individual set forth in Section 25 of this Subcontract.

“Prudent Industry Practice” means any of the practices, methods, and acts engaged in or approved by a significant portion of the solar photovoltaic installation industry in the country and geographic region where the PV system is located during the relevant time period, or (ii) practices, methods and acts that, in the exercise of reasonable judgment on the facts known (or that reasonably should have been known) at the time a decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition

“REDF” means Renewable Energy Development Fund (D.C. Official Code § 34-1436)

“Services” means any and all labor, equipment and other items required for Subcontractor to perform the services set forth in attachments to this Subcontract or fully-executed Work Orders, as applicable.

“SfA Program” means the Solar for All Program administered by the DCSEU and funded by DOEE to increase the access of seniors, small local businesses, nonprofits, and low-income households in the District of Columbia to the benefits of solar power and provide the long-term financial benefits of solar energy production to District of Columbia low-income households. (D.C. Official Code § 8-1774.16)

“SREC” means Solar Renewable Energy Credit (D.C. Official Code §§ 34-1432 - 1433).

“Subcontract Scope of Work” means Subcontractor’s Scope of Work identified in **Attachment B**.

“VEIC” has the meaning set forth in the first paragraph of this Subcontract.

“Weather-Adjusted” means adjusting the expected electricity output to remove the uncertainty related to weather variability in a given Production Year.

“Work Order” has the meaning set forth in Section 2 of this Subcontract.

“Work Order Manager” means the individual(s) responsible for the day-to-day oversight of the Work Order Content on behalf of VEIC pursuant to Section 2.h. of this Subcontract. The Work Order Manager(s) will be the individual(s) identified on a Work Order(s).

## Attachment B

### GENERAL SCOPE OF WORK AND PRICING PROVISIONS

#### GENERAL DESCRIPTION OF SERVICES

Subcontractor will identify, design, install, commission, operate, and maintain fully integrated and operational photovoltaic (PV) electric generation system(s) that produce electric output on the roofs of single-family residences of income-qualified property owners or tenants located in the District of Columbia under the DCSEU's Fiscal Year (FY) 2020 SfA Program. Subcontractor shall provide turn-key planning, design, engineering, permitting, labor, materials, delivery, installation, and commissioning of each PV System installed under this Subcontract. Each PV System will also be required to operate and interconnect as a residential Net Metering System. Subcontractor shall provide 100 percent of the electrical output from each PV System to the income-qualified property owner or tenant as specified in this Subcontract and each Work Order, at no-cost for a minimum of 20 years.

Subcontractor shall design and construct each PV System so that it results in an expected 50 percent reduction to the property owner's or tenant's annual electricity costs based on the District of Columbia's average residential electric bills for 2016, which equates to a reduction of 4,200 kWh per year. Subcontractor shall guarantee a minimum performance level of 90 percent of the Weather-Adjusted expected electrical output, on an annual per-home true-up schedule as specified in the "Performance Guarantee" section below. Subcontractor shall provide the property owner or tenant for each PV System with all necessary training on the PV System, as well as documentation and trouble-shooting guidelines written in plain and understandable language. Subcontractor's training shall include, but is not necessarily limited to:

1. A basic overview of the system and system components;
2. How to view the system and system output on-line;
3. Who to call in case there is an issue with the system;
4. What to expect and what to look for on their utility bill; and
5. Additional details of the required services are set forth below.

#### ***I. Eligible Projects***

##### ***A. Income Eligibility Requirements:***

Income-qualified property owners or tenants are defined as households with total annual incomes equal to or below 80% of the Area Median Income ("AMI") as listed in the table below. The household income amounts listed in the eligibility table are effective 10/01/19 through 9/30/2020, unless otherwise updated by the US Dept. of Housing and Urban Development (HUD). Please visit the HUD's website for the most-up-to-date numbers.

Subcontractor is required to confirm and submit documentation to the DCSEU evidencing each property owner or tenant meets the income eligibility requirements for the SfA Program.

A property owner or tenant who is already receiving benefits from the SfA Program is not eligible for the DCSEU FY2020 SfA Program.

Household income thresholds listed in the eligibility table below are effective from 10/1/19 through 9/30/2020, unless otherwise updated by HUD. It is the Subcontractor's responsibility to track this data for any changes.

Persons in household	1	2	3	4	5	6	7	8
Income threshold	\$67,950	\$77,650	\$87,350	\$97,050	\$104,850	\$112,600	\$120,350	\$128,150

Subcontractor acknowledges that its income verification obligations detailed in this Section require Subcontractor to collect highly sensitive personal information and data that MUST be kept confidential. Subcontractor agrees to use and ensure its employees or lower-tier subcontractors use, a DCSEU-approved device to collect, restrict access to, and transmit all sensitive personal information and data required to qualify income-eligible property owners and tenants for the SfA Program. Subcontractor also acknowledges that it must comply with all applicable privacy and security laws and regulations and agrees to implement commercially reasonable security safeguards and controls to ensure the protection of such information and data.

Additionally, Subcontractor agrees to submit to the DCSEU's reasonable data security and privacy compliance assessments. Such assessments may include, but are not limited to, Subcontractor's current information security practices, network architecture, equipment, and staff trainings. No assessment conducted, nor DCSEU's election not to do so, shall relieve Subcontractor of any of its security and privacy obligations hereunder.

**B. Property Owner Requirements:**

Subcontractor must also obtain the property owner's consent to install each PV System and comply with the terms and conditions of the SfA Program using the pre-approved form of Homeowner Agreement included as **Attachment M** to this Subcontract. Any changes to the pre-approved form of Homeowner Agreement must be approved by the DCSEU in a written amendment to this Subcontract. This requirement applies to both income-qualified property owners who reside at the property and property owners of residences with income-qualified tenants.

**II. *Ineligible Projects***

The SfA Program was designed to support and incentivize new solar capacity in the District of Columbia to help meet the SfA Program targets. Accordingly, the following PV Systems are not eligible for the SfA Program:

- A. Projects located outside the District of Columbia;
- B. Projects that have received District incentives or funding through other District solar initiatives, such as DOEE's Solar for All DC Innovation & Expansion Grants; and
- C. Projects that cannot meet the milestone deliverables and deadlines outlined in this Subcontract.

PV Systems will not be disqualified from receiving incentives under this Subcontract if the Project received or will receive additional DCSEU incentive payments in return for rights to SRECs produced by the PV System.

**III. Project Development, Construction, Inspection, and Interconnection**

Subcontractor’s progress on each Project shall be tracked as outlined in this Section. Subcontractor shall follow the below process to complete each Project and submit the required documentation (specified in each Work Order, see Attachment C for a template) after completion of each milestone. The deliverables and deadlines for completion of milestones are described below.

**A. Design and Preliminary Due Diligence Review:**

<b>Item No.</b>	<b>Deliverables</b>	<b>Deadline</b>
1.	Preliminary Engineering Design Drawings	Prior to issuance of a Work Order
2.	Subcontractor’s Statement	Prior to issuance of a Work Order

1. **Preliminary Engineering Design Drawings:** Prior to issuance of a Work Order, Subcontractor shall identify, design, and submit preliminary engineering design drawings to the DCSEU to demonstrate project feasibility. The DCSEU will review the preliminary engineering design drawings to verify the Project design meets the following requirements:

- 1.1. Maximize on-site solar energy output;
- 1.2. Consider shading and roof orientation;
- 1.3. Ensure the home is capable of structurally and electrically supporting solar;
- 1.4. Evaluate and determine a suitable location for the PV inverters; and
- 1.5. Comply with requirements for new solar installations, including historic district limitations.

The DCSEU requires that orientation of the PV System be in line with best industry practices. Panels placed on inappropriate surfaces or direction just to maximize solar renewable energy credits (SRECs) will not be eligible to receive incentive funding.

2. **Subcontractor’s Statement.** Subcontractor shall sign a statement in each Work Order under this Subcontract representing that each Project installed under such Work Order:

- 2.1. Is located in the District of Columbia;
- 2.2. Has not, is not and will not receive District incentives or funding through other District solar initiatives, such as DOEE’s Solar for All DC Innovation & Expansion Grants;
- 2.3. Is not for a property owner or tenant who is already receiving benefits from the SFA Program; and
- 2.4. Will meet the milestone deliverables and deadlines set forth in the Work Order.

**B. Milestone 1: Engineering, Permitting, and Customer/Property Owner Agreements:**

Item No.	Deliverables	Deadline
1.	Stamped engineering design drawings	Milestone 1 Deadline
2.	Signed Homeowner Agreement using the pre-approved form included as <b>Attachment M</b> .	Milestone 1 Deadline
3.	Letter of Commitment from financing partner	Milestone 1 Deadline
4.	DCRA permits (e.g. solar and electrical)	Milestone 1 Deadline
5.	Pepco Approval of Interconnection Application Agreement Part I (“Approval to Install” or “ATI”)	Milestone 1 Deadline
6.	Recent PEPCO bill, if available.	Milestone 1 Deadline
7.	Income qualification documentation	Milestone 1 Deadline

**Subcontractor must have a Work Order signed by Subcontractor and the DCSEU prior to commencing milestone services. Subcontractor acknowledges that any services performed by Subcontractor to develop or qualify a Project for a Work Order shall be performed at Subcontractor’s own cost and expense.**

To complete Milestone 1, Subcontractor shall complete the following services:

1. Stamped Engineering Design Drawings. Subcontractor shall prepare and provide to the DCSEU stamped engineering design drawings required to obtain permitting approvals for installing each PV System. The stamped engineering drawings must include the following information:
  - 1.1 System description and size;
  - 1.2 Installer information;
  - 1.3 System design/layout;
  - 1.4 System electrical design; and
  - 1.5 Equipment details, specifications, and cut sheets.
  
2. Signed Property Owner Agreement. Subcontractor shall provide the DCSEU with a signed copy of the pre-approved form of Homeowner Agreement included as **Attachment M** to this Subcontract for each Project. No changes shall be made to the approved form of Homeowner Agreement unless approved in a written amendment to this Subcontract. All changes will require DCSEU and DOEE approval.
  
3. Signed Letter of Commitment from Financing Partners. Subcontractor shall provide the DCSEU with a copy of its signed letter of commitment from financiers (third-party investors or lenders), where applicable, specifying, at minimum:
  - 3.1 Amount of capital being invested or loaned;
  - 3.2 The exact number of installations or commensurate capacity that will be financed;
  - 3.3 Date until which such terms of investment will be available to Subcontractor; and
  - 3.4 Such additional information as the DCSEU may reasonably request.

4. DCRA Permits and Licensing. Subcontractor shall obtain and maintain all required permits (e.g. building, solar, and electrical permits) and licenses necessary to construct each Project and document that all applicable local, state, and federal requirements have been met including, but not limited to, adherence to District of Columbia codes (building, structural, and electrical) and the National Electric Code (NEC). As a part of this work, Subcontractor is also responsible for ensuring that the structure of the home can support the PV System and demonstrating that the PV System will have adequate corrosion and runoff/snow loading control.
5. PEPCO Approval to Install: Subcontractor shall obtain an Approval of Interconnection Application Agreement Part I (“Approval to Install” or “ATI”) from Pepco for the Project, and submit a copy of the ATI to the DCSEU as part of Milestone 1.
6. Recent PEPCO Bill. Subcontractor shall submit a copy of a recent PEPCO bill to the DCSEU. If the property owner or tenant has not occupied the property for more than 30-days, this requirement will be waived.
7. Income Qualification Information and Data. Subcontractor shall use a DCSEU-approved device to collect, restrict access to, and transmit all sensitive personal information and data used by Subcontractor to qualify the property owner(s) or tenant(s) for the SfA Program. Copies of the income-qualification information and data shall be provided to the DCSEU electronically as part of Milestone 1 and shared with DOEE.

**C. Milestone 2: Procurement of Materials**

Item No.	Deliverables	Deadline
1.	Documentation evidencing procurement of the equipment necessary to stage and install the PV System, including modules, inverters, and racking. Proof of payment is <u>not</u> required as a part of Milestone 2; however proof will be required as a part of Milestone 3.	Milestone 2 Deadline

To complete Milestone 2, Subcontractor shall complete the following services:

1. Procurement of Materials. Subcontractor shall procure the equipment (modules, inverters, and racking at a minimum) necessary to stage and install each PV System and interconnect it with the electrical supply according to the permitted design. All equipment must meet the following requirements:
  - 1.1 New, never used, and with factory warranties intact;
  - 1.2 Inverters comply with the following requirements:
    - i. IEEE 1547-2018;
    - ii. PEPCO interconnection requirements; and
    - iii. Monitoring capability of system output that is also compatible with the DCSEU performance monitoring software.

- 1.3 The system(s) consist of components that are UL listed, meet all code and permit requirements, and meet industry design standards; and
- 1.4 Must comply with the warranties and guarantees for system component performance. The warranties and guarantees shall include the following, if available:
  - i. Labor and installation warranty (20 years or longer);
  - ii. PV module warranty (20 years or longer);
  - iii. Inverter warranty (20 years or longer);
  - iv. Optimizer or micro inverter warranty (20 years or longer); and
  - v. Guarantee the output of the system over the 20-year term as further outlined below.

***D. Milestone 3: Completion of Project***

<b>Item No.</b>	<b>Deliverables</b>	<b>Deadline</b>
1.	DCRA final approval of the installed PV System. This includes providing the DCSEU with any revised permits or as-built drawings.	Milestone 3 Deadline
2.	DCSEU Substantial Completion Report (sometimes also referred to as the QA/QC Report).	Milestone 3 Deadline
3.	Pepco Approval of Interconnection Application Agreement Part II (“Permission to Operate” or “PTO”)	Milestone 3 Deadline
4.	Operation and Maintenance (“O&M”) Manuals and Plans, Warranties and Project Documentation	Milestone 3 Deadline
5.	Evidence of Payment for Equipment	Milestone 3 Deadline
6.	Notify the DCSEU and property owner or tenant in writing when electricity generation has been initiated and is providing electricity to the home	Milestone 3 Deadline
7.	Documentation or evidence Subcontractor has applied to the DC Public Service Commission (“PSC”) to register the Project.	Milestone 3 Deadline

To complete Milestone 3, each Project must reach completion of the PV System. Completion is defined as a solar Project that has met the below requirements.

- 1. DCRA Final Approval. Subcontractor shall obtain DCRA final approval of each Project matching the permitted PV System under Milestone 1. DCRA final approval shall include, at a minimum, but is not necessarily limited to:

- 1.1 Scheduling an on-site or remote inspection and submitting all documentation required per DCRA protocols;
- 1.2 Starting and operating each PV System to document that it meets design performance standards;
- 1.3 Performing component shut-down and start-up testing; and
- 1.4 Conducting a specified period test to document performance according to design and this Subcontract's standards.

If modifications were made to the PV System after Milestone 1, Subcontractor shall complete and submit revised as-built drawings, permits, and an interconnection application (if any) at no additional cost to the DCSEU. Subcontractor will be responsible for all fees and costs to obtain DCRA final approval.

2. DCSEU Quality Assurance/Quality Control ("QA/QC") Project Inspection. Subcontractor shall notify the DCSEU upon completion of installation to schedule a QA/QC inspection. Subcontractor understands that the DCSEU will conduct a detailed QA/QC inspection of each completed Project to confirm that it has been built according to the requirements of this Subcontract and Work Order and follows best practices for safety and optimizing generation. The DCSEU may take photographs as part of the project inspection to document that the PV system demonstrates secure and safe operation of a PV System.
3. PEPCO Permission to Operate. Subcontractor shall submit an interconnection request to PEPCO and obtain a "Permission to Operate" or "PTO" using PEPCO's Interconnection Application Agreement, Part II. Subcontractor shall be responsible for paying all fees and costs associated with interconnection of the PV System(s). Subcontractor shall submit a copy of the PTO, received in the form of an email from PEPCO.
4. Operation and Maintenance ("O&M") Manual, Warranties, and Project Documentation. Subcontractor shall provide the property owner and the DCSEU with hard copies of all O&M manuals for the PV system(s), specification sheets, warranties, and as-built design drawings. Subcontractor shall provide one hard copy to the property owner and an electronic copy to the DCSEU. The manuals and materials shall include operation and maintenance protocols, safety precautions, and who to contact if issues arise with system operation.
5. Evidence of Payment for Equipment. Subcontractor shall provide documentation evidencing procurement of the equipment necessary to stage and install the PV System matching the system permitted in Milestone 1, which shall include, at a minimum, the modules, inverters, and racking materials to complete installation. This proof can be in the form of a sales receipt, packing list, line of credit or other documentation approved by the DCSEU.
6. Electricity Output. Subcontractor shall turn on the PV System within 2 calendar days of receipt of PTO and notify the DCSEU and property owner or tenant in writing, as part of the documentation for Milestone 3, when the PV System is generating electricity for the benefit of the income-eligible property owner or tenant.
7. Registration with DC Public Service Commission (PSC): Subcontractor shall provide the DCSEU documentation or evidence that it has applied to the PSC to register the Project. Subcontractor shall comply with the process outlined by the PSC for registration (see <https://dcpsec.org/Utility-Information/Electric/Renewables/Renewable-Energy-Portfolio-Standard-Program.aspx>).

***E. Post Construction Obligations***

<b>Item No.</b>	<b>Description</b>	<b>Period</b>
1.	Operation and Maintenance (at no-cost to the property owner)	20 Years from Interconnection
2.	PV System’s Electrical Output	20 Years from Interconnection
3.	Post Construction Monitoring	20 Years from Interconnection
4.	Performance Guarantee (90% of the annual expected electrical output)	20 Years from Interconnection

1. Operation and Maintenance. Subcontractor shall provide operation, maintenance, and repair of each PV System for a minimum of 20 years from the date Subcontractor receives the PTO for the PV System from PEPCO. Subcontractor shall perform all such services in accordance with applicable law and Prudent Industry Practice. Subcontractor shall be responsible for:
  - 1.1 Maintaining a team or a contract with a company to provide operation, maintenance, and repairs for the PV System. This work will include providing execution or oversight of routine preventive maintenance (“PM”) activities for the PV System in accordance with Prudent Industry Practices to troubleshoot, inspect, and repair the equipment upon identification and detection of certain conditions, including without limitation, as prescribed by manufacturers, and in any event, at least annually.
  - 1.2 Planning and managing operations and maintenance activities, including:
    - 1.2.1 Monitoring the operating of the PV System, responding immediately to any events which may or do impact operations and output.
    - 1.2.2 Managing and maintaining the PV System to maximize production and promptly acting to remedy any underperformance issues.
    - 1.2.3 Assuring that the PV System is operating properly and in a safe, reliable, efficient, and prudent manner.
    - 1.2.4 Assuring that operations and maintenance personnel are trained and qualified for their assigned responsibilities and tasks, and that such qualification is maintained.
    - 1.2.5 Assuring that the PV System meets all contract, regulatory, and environmental requirements.
    - 1.2.6 Planning, scheduling, and managing work and maintenance activities.
2. Electrical Output. Subcontractor shall provide the income-eligible property owner or tenant with:
  - 2.1 100 percent of the PV System’s electrical output as specified in each work order, at no-cost;
  - 2.2 Any credits on the property owner’s or tenant’s electric bill that materializes from generating excess electrical output; and
  - 2.3 A minimum performance guarantee level of 90 percent of the Weather-Adjusted expected output, on an annual per-home true-up schedule as specified in the “Performance Guarantee” section below.

Subcontractor shall provide the above benefits for a minimum of 20 years from the date Subcontractor receives the PTO for the PV System from PEPCO.

3. Post-Construction Monitoring. Subcontractor shall provide ongoing monitoring of the PV System output and performance to ensure long-term success of the Project. Subcontractor shall allow access to the DCSEU and DOEE and their authorized designees to the inverter's monitoring system enabling the monitoring of the real-time performance of the PV System for a minimum of 20 years from the date Subcontractor receives the PTO for the PV System from PEPCO. The monitoring system shall be designed to inform Subcontractor and DCSEU and DOEE staff when the PV System is off-line or when performance is below expectations. The monitoring system capabilities shall include at a minimum the following:
  - 3.1 System operational status, historic and real-time;
  - 3.2 The ability to produce a standard monthly summary report for electronic distribution and archiving;
  - 3.3 Average and cumulative output;
  - 3.4 Capacity factor by month; and
  - 3.5 Subcontractor will allow the DCSEU to monitor its PV Systems, including permission to include the PV System in a single source monitoring system at DCSEU's discretion.

Subcontractor shall provide the DCSEU, DOEE, third-party evaluators, and their authorized representatives access to the Project site for inspections of physical installations and access to the generation data for analysis and ongoing monitoring.

The DCSEU Sfa Program could be subject to third-party evaluation as part of the larger oversight of DCSEU's portfolio. The evaluator may join the DCSEU and/or DOEE for construction site visits and may analyze production data. The DCSEU will share the Projects' generation data and system characteristics with the evaluator.

4. Performance Guarantee. Subcontractor shall ensure each of the PV Systems installed under this Subcontract performs at a minimum level of 90% of the annual expected electrical output benefiting the income-eligible property owner or tenant for at least 20 years from the date Subcontractor receives the PTO for the PV System from PEPCO. The annual expected output will be Weather-Adjusted as described below to account for particularly sunny or not-sunny years and for any snow accumulation. Subcontractor is required to ensure the expected electrical output meets the Performance Guarantee on an annual basis for the 20-year period.
  - 4.1 Estimates of the expected solar electricity output will incorporate weather data from NREL PVWatts generation, based on NREL (NSRDB) weather data for the District of Columbia or similar data source into NREL's System Advisor Model. The DCSEU will either apply an adjustment to the annual expected output to account for weather, use other District of Columbia solar installations' output to estimate reasonable seasonal variation, or devise a combination of those strategies.

#### ***IV. Marketing***

Subcontractor shall comply with the below marketing requirements *in addition* to the requirements set forth in Section E (No Statements) of **Attachment H** (Special Requirements) to this Subcontract.

1. Subcontractor must notify the DCSEU in writing at least 48 hours in advance (via email) prior to any press release about its work on the SfA Program. Any press release shall be subject to DCSEU approval.
2. Subcontractor must notify the DCSEU in writing at least 48 hours in advance (via email) if Subcontractor anticipates any media coverage of its work on the SfA Program. Any appearance by Subcontractor on any media outlet shall be subject to DCSEU approval.
3. Subcontractor will include the DCSEU in any press releases, media alerts, earned media pitching (collectively, "Press"), events, and social media promoting or referencing the DCSEU SfA Program.
4. Subcontractor must provide the DCSEU with any SfA Program marketing materials for review and approval prior to using materials with potential customers.
5. Subcontractor shall display provided DCSEU SfA Program yard signs at all active SfA Program single-family solar projects, pending space for signage and property owner approval of signage. Subcontractor shall not display DCSEU SfA Program yard signage at any projects not affiliated with the DCSEU SfA Program

## PRICING PROVISIONS

### **PRICING:**

Subcontractor will be paid in accordance with the following provisions:

As stated in Section 2.g. of the Subcontract, all Services provided under this Subcontract will be undertaken based upon one or more Work Orders issued by VEIC to Subcontractor using the Work Order template attached as **Attachment C**.

Each Work Order will contain the milestone deliverables, deadlines, payment schedule, total incentive payment, and a not-to-exceed capacity and dollar amount. The total incentive payment in the Work Order will be based on the anticipated capacity of the Project at the time the Work Order is issued and shall be adjusted based on the as-built system capacity confirmed in the DCSEU Substantial Completion Report. Subcontractor shall be paid at a rate of \$~~X.XX~~ per every 1 (one) watt (w) of the installed system's size, NTE 5 kW for each PV system's size, unless otherwise approved in writing by the DCSEU in a Work Order.

Subcontractor will be eligible to receive an incentive payment as set forth in the applicable Work Order (See **Attachment C** for the Work Order template). The incentive payment will be in return for installation, PEPCO's approval of Interconnection Application Agreement (PTO), completion of interconnection, documentation or evidence that Subcontractor has applied to the PSC to register the Project and a contractual commitment for 20 years of electrical output.

There are no reimbursable expenses under this Subcontract.

**ATTACHMENT C**

**SFA Work Order TEMPLATE**

SFA Subcontract No:	Insert Subcontract Number
Subcontractor:	Insert Subcontractor Name
Trade:	Solar for All – Single Family
Work Order No:	Insert WO Number
IQC MLA Value:	Insert MLA value
Value of this Work Order:	Insert WO Value
Date:	Date WO will be issued
Name of Customer(s) Served:	Insert Customer Served
Site Location	[Insert Site Location]
Tracker Project Number	Insert
Cost Codes:	7109-
Work Order Manager(s):	Insert the WO Manager Name(s)

**SCOPE OF WORK AND PRICING PROVISIONS:**

This Work Order authorizes Subcontractor to complete the following:

Subcontractor shall design, procure, and install a PV System on the roof of a single-family home of a participating income-qualified property owner or tenant under the DCSEU’s Sfa Program. Subcontractor shall install a total of one (1) PV System at the address listed above with an anticipated total capacity of **XX** kW.

<b><i>Milestone 1: Design, Engineering, Permitting, Property Owner Contracts and Letters of Commitment</i></b>	
Design, Engineering, Permitting, Property Owner Contracts and Letters of Commitment	<p>Subcontractor shall submit the below documentation to the Work Order Manager for review and approval using the agreed upon secure file transfer mechanism. All documents must comply with the requirements outlined in Attachment B.</p> <ul style="list-style-type: none"> <li>• Stamped engineering design drawings;</li> <li>• Signed Homeowner Agreement using the pre-approved form included as <b><u>Attachment M</u></b>;</li> <li>• Letter of Commitment from Financing Partner(s);</li> <li>• DCRA permit and any other required permits for construction of the PV System (e.g. solar and electrical);</li> <li>• PEPCO Approval of Interconnection Application Agreement Part I (“Approval to Install” or “ATI”);</li> <li>• Recent PEPCO bill, if available; and</li> <li>• Income qualification documentation.</li> </ul>
	The due date for Milestone 1 is June 1, 2020.
<b><i>Milestone 2: Procurement of Materials</i></b>	
Subcontractor shall provide evidence the materials have been procured.	Subcontractor shall submit the below documentation to the Work Order Manager for review and approval using the agreed upon secure file transfer mechanism. All documents must comply with the requirements outlined in Attachment B.

	<ul style="list-style-type: none"> <li>Documentation evidencing procurement of the equipment necessary to stage and install the PV System, including modules, inverters, and racking. Evidence of payment is not required as a part of Milestone 2; however evidence will be required as a part of Milestone 3.</li> </ul>
	The due date for Milestone 2 is June 30, 2020.
<b><i>Milestone 3: Completion of Project</i></b>	
Subcontractor shall provide services related to commissioning and interconnection of each system. DCRA approval and final DCRA inspection must be obtained	<ul style="list-style-type: none"> <li>Subcontractor shall submit the below documentation to the Work Order Manager for review and approval using the agreed upon secure file transfer mechanism to show completion of the Project. All documents must comply with the requirements outlined in Attachment B.</li> <li>DCRA final approval of the installed PV System. This includes providing the DCSEU with any revised permits or as-built drawings;</li> <li>DCSEU Substantial Completion Report (sometimes also referred to as the QA/QC Report);</li> <li>Pepco Approval of Interconnection Application Agreement Part II (“Permission to Operate” or “PTO”);</li> <li>Operation and Maintenance (“O&amp;M”) Manuals and Plans, Warranties and Project Documentation;</li> <li>Proof of Payment for Equipment;</li> <li>Confirmation in writing that the PV System is generating electricity; and</li> <li>Documentation or evidence that Subcontractor has applied to the PSC to register the Project.</li> </ul>
	The due date for Milestone 3 is July 31, 2020.  Subcontractor will be paid the incentive amount upon completion and DCSEU acceptance of Milestone 3 documents. <b>The incentive amount is subject to change depending on the installed system size.</b>

Notwithstanding the above, a Not-to-Exceed (NTE) amount for this Work Order has been established by the DCSEU. Subcontractor will be paid only for completed and verified work as outlined above. In no event will payment exceed the amounts listed above, nor will the total payment for this Work Order exceed the NTE amount of \$XXXX (WRITTEN DOLLAR AMOUNT). Subcontractor will be paid at a rate of \$X.XX for every 1 (one) watt of the installed capacity, not to exceed a total of XX kW.

***Subcontractor bears all risks for cost incurred by exceeding the quantities listed above, NTE or MLA without negotiating and executing an amendment to the existing NTE or MLA before the cost overrun occurs.***

ANY MILESTONE PAYMENT(S) ARE CONDITIONAL UPON SUBCONTRACTOR’S TIMELY COMPLETION OF ALL MILESTONES, INCLUDING ENSURING ELECTRICAL OUPUT GENERATION WITHIN 2 CALENDAR DAYS AFTER RECEIPT OF PTO, AND THE ABILITY TO DELIVER 20 YEARS OF PV SYSTEM OUTPUT. IN THE EVENT THAT SUBCONTRACTOR DOES NOT COMPLETE ALL MILESTONES BY JULY 31, 2020, ANY MILESTONE PAYMENT(S) PAID TO SUBCONTRACTOR SHALL BE PROMPTLY REPAID TO THE DCSEU, BUT IN NO

EVENT LATER THAN 30 CALENDAR DAYS AFTER SUBCONTRACTOR RECEIVES A REQUEST FOR REPAYMENT FROM THE DCSEU.

Subcontractor acknowledges that there is no assurance of funding availability past September 30, 2020, Subcontractor's obligation to repay the incentive payment received in the event that Subcontractor does not complete the requirements of all three Milestones by September 30, 2020, shall be secured by a collateral assignment of permits and project documents and by a security interest in personal property relating to the applicable PV system.

**SCHEDULE: (TERM OF WORK ORDER):**

The Term of this Work Order shall commence on or after **MM DD YYYY** and shall be completed on or before **MM DD YYYY**, with all necessary compliance and invoicing submitted on or before **MM DD YYYY**. Subcontractor shall use commercially reasonable efforts to achieve completion of all milestone requirements, unless the DCSEU extends these dates in writing through an Amended Work Order as outlined in Section 2.1(i). of the Subcontract.

**QUALITY ASSURANCE:**

Subcontractor shall notify the DCSEU upon completion of project installation of the solar PV system(s) to schedule a Quality Assurance/Quality Control (QA/QC) project inspection with the DCSEU. Subcontractor understands that inspections will only be scheduled once all the installed measures have been completed by Subcontractor. Subcontractor further understands and agrees that failure to complete the solar PV system(s) within the term of this Work Order and pass the QA/QC inspection may result in the termination of this Work Order. In cases of termination, Subcontractor shall promptly return any incentive funds paid to Subcontractor prior to termination to the DCSEU, but in no event later than 30 calendar days after Subcontractor receives a request for repayment from the DCSEU.

Nothing in the Work Order shall modify or alter the terms or conditions of the Subcontract, which is hereby incorporated by reference in full.

**INELIGIBLE PROJECTS:**

Subcontractor acknowledges that the following Project(s) are not eligible to participate in the DCSEU FY20 Solar for All (SfA) Program:

- a. Projects located outside the District of Columbia;
- b. Projects that have received District incentives or funding through other District solar initiatives, such as DOEE's Solar for All DC Innovation & Expansion Grants; and
- c. Projects that cannot meet the milestone deliverables and deadlines outlined in this Subcontract.

By executing this Work Order, Subcontractor warrants and represents that each Project installed under this Work Order:

- a. Is located in the District of Columbia;
- b. Has not, is not, and will not receive any District incentives or funding through other District solar initiatives, such as DOEE's Solar for All DC Innovation & Expansion Grants;

- c. Is not for a property owner or tenant who is already receiving benefits from the Sfa Program; and
- d. Will meet the milestone deliverables and deadlines set forth in the Work Order.

**ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.**

**SIGNATURES:**

**ACCEPTED BY:**

SUBCONTRACTOR

By: \_\_\_\_\_ *DO NOT SIGN – TEMPLATE*  
*ONLY* \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED BY:**

VERMONT ENERGY INVESTMENT CORPORATION

By: \_\_\_\_\_ *DO NOT SIGN – TEMPLATE*  
*ONLY* \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTACHMENT D**  
**INVOICING AND PAYMENTS**

**Invoice Requirements**

Subcontractor may submit invoices for achievement of applicable milestones with allowable costs in accordance with the Subcontract and VEIC-authorized Work Order(s). The invoice and supporting documentation are to be received at VEIC's principal offices by the 5<sup>th</sup> business day of the subsequent calendar month. This is defined as the "Cut-off Date". Invoices not received by the Cut-off Date will be delayed in payment until the following month.

If invoices are submitted by mail, one copy should be sent to:

Accounts Payable  
Vermont Energy Investment Corporation  
20 Winooski Falls Way, 5<sup>th</sup> Floor  
Winooski, Vermont 05404

A second copy should be sent to the VEIC Work Order Manager(s) as identified in the Work Orders.

If submitted via e-mail, invoices should be sent to [AccountsPayable@veic.org](mailto:AccountsPayable@veic.org) and a copy to the VEIC Work Order Manager(s) and [tchristopher@dcseu.com](mailto:tchristopher@dcseu.com) at the same time.

**All invoices will, at a minimum, include:**

- Subcontractor name;
- Subcontractor address;
- Invoice number and date;
- Subcontractor Federal Employer I.D. number (or Social security number if Subcontractor is an individual / sole proprietorship);
- Milestone(s) covered by invoice to include VEIC project number, customer name, and site address, as applicable;
- Subcontract Number and Work Order being billed in support;
- Name, title, telephone number, email, and complete mailing address of responsible party to whom payment is to be sent;
- Administrative contact name, phone number, and e-mail of preparer of invoice;
- Name, title, telephone number, email, and complete mailing address of person to be notified in event of a defective invoice; and
- Signature of the Subcontractor's Authorized Representative providing the following certification: "I certify that this invoice constitutes a proper invoice for services completed in accordance with the requirements of the Subcontract and Work Order between VEIC and Subcontractor."

**NOTE: IF ANY OF THE LISTED ITEMS ARE MISSING, THE INVOICE WILL BE RETURNED AND NO PAYMENT WILL BE MADE UNTIL THE ITEMS ARE COMPLETED.**

Subcontractor will cooperate with VEIC to develop an invoice format and requirements for implementation prior to the first invoice submitted under this Subcontract. VEIC may require modifications to the form of invoice during the Performance Period of this Subcontract.

### **Payments**

Within 30 calendar days, excluding legal holidays, after receipt of a proper invoice from Subcontractor, VEIC will pay Subcontractor for services that have been completed in accordance with the requirements of this Subcontract, including passing inspection by VEIC if the services are subject to such inspection. A “proper invoice” means an invoice that complies with the Invoice Requirements set forth above and that contains or is accompanied by substantiating documentation required by this Subcontract. For services that are subject to inspection by VEIC, VEIC will pay Subcontractor within 30 days of receipt of a proper invoice for services that have been completed in accordance with the requirements of this Subcontract unless VEIC performs an inspection and Subcontractor’s work fails the inspection. In the case of a failed inspection, the items on the invoice that passed inspection will be paid within 30 days, and invoice items that did not pass inspection will be paid after Subcontractor corrects the defects and completes the services in accordance with the requirements of this Subcontract.

Expenditures shall not be reimbursable if they are not in conformity with guidance or rules prescribed by the Internal Revenue Service or the Office of Management and Budget.

VEIC will pay interest on late payments to Subcontractor as provided in subsection (b)(1) and (2) of DC Official Code §2-221.02.

This “Payments” subsection will not limit or impair any contractual, administrative, or judicial remedies otherwise available to Subcontractor in the event of a disputed payment, late payment or nonpayment by VEIC, or to VEIC in the event of deficient Subcontract performance or nonperformance by Subcontractor.

### **Flow-down requirements for lower-tier subcontractors**

Subcontractor shall include in its subcontracts with any lower-tier subcontractors or suppliers the payment and interest clauses from paragraphs (1) and (2) of DC Official Code §2-221.02(d).



**ATTACHMENT F**

**FIRST SOURCE EMPLOYMENT AGREEMENT AND FORMS**

Contract Number: \_\_\_\_\_

Employer Name: \_\_\_\_\_

Project Contract Amount: \_\_\_\_\_

Employer Contract Award: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Ward: \_\_\_\_\_

Nonprofit Organization with 50 Employees or Less:      \_\_\_\_\_ Yes      \_\_\_\_\_ No

This First Source Employment Agreement, in accordance with The First Source Employment Agreement Act of 1984 (codified in D.C. Official Code §§ 2-219.01 – 2.219.05), The Apprenticeship Requirements Amendment Act of 2004 (Codified in D.C. Official Code §§ 2-219.03 and 32-1431) for recruitment, referral, and placement of District of Columbia residents, is between the District of Columbia Department of Employment Services, hereinafter referred to as “DOES”, and **Subcontractor** hereinafter, referred to as EMPLOYER. Under this Employment Agreement, the EMPLOYER will use DOES as its first source for recruitment, referral, and placement of new hires or employees for all new jobs created by the Project. The Employer will hire 51% District of Columbia residents for all new jobs created by the Project, and 35 % of all apprenticeship hours be worked by DC residents employed by EMPLOYER in connection with the Project shall be District of Columbia residents registered in programs approved by the District of Columbia Apprenticeship Council.

**I. GENERAL TERMS**

- A. Subject to the terms and conditions set forth herein, the EMPLOYER will use DOES as its first source for the recruitment, referral and placement for jobs created by the Project.
- B. The EMPLOYER will require all Project contractors with contracts totaling \$300,000 or more, and Project subcontractors with subcontracts totaling \$300,000 or more, to enter into a First Source Employment Agreement with DOES.
- C. DOES will provide recruitment, referral and placement services to the EMPLOYER, which are subject to the limitations set out in this Agreement.
- D. The participation of DOES in this Agreement will be carried out by the Office of Employer Services, which is responsible for referral and placement of employees, or such other offices or divisions designated by the Office of the Director, of DOES.

- E. This Agreement will take effect when signed by the Parties below and will be fully effective for the duration of the Project contract and any extensions or modification to the Project contract.
- F. This Agreement will not be construed as an approval of the EMPLOYER'S bid package, bond application, lease agreement, zoning application, loan, or contract/subcontract for the Project.
- G. DOES and the EMPLOYER agree that, for purposes of this Agreement, new hires and jobs created for the Project (both union and nonunion) include all EMPLOYER'S job openings and vacancies in the Washington Standard Metropolitan Statistical Area created for the Project as a result of internal promotions, terminations, and expansions of the EMPLOYER'S workforce, as a result of this project, including loans, lease agreements, zoning applications, bonds, bids, and contracts.
- H. This Agreement includes apprentices as defined and as amended, in D.C. Law 2-156. D.C. Official Code §§ 32-1401- 1431.
- I. The EMPLOYER, prime subcontractors and subcontractors who contract with the District of Columbia government to perform construction, renovation work, or information technology work with a single contract, or cumulative contracts, of at least \$500,000, let within a 12-month period will be required to register an apprenticeship program with the District of Columbia Apprenticeship Council; and this includes but is not limited to, any construction or renovation contract or subcontract signed as the result of, a loan, bond, grant, Exclusive Right Agreement, street or alley closing, or a leasing agreement of real property for one (1) year or more. In furtherance of the foregoing, the EMPLOYER shall enter into an agreement with its contractors, including the general contractor, that requires that such contractors and subcontractors for the Project participate, in apprenticeship programs for the Project that: (i) meet the standards set forth in Chapter 11 of Title 7 of the District of Columbia Municipal Regulations, and (ii) have an apprenticeship program registered with the District of Columbia's Apprenticeship Council.

## **II. RECRUITMENT**

- A. The EMPLOYER will complete the attached Employment Plan, which will indicate the number of new jobs projected to be created on the Project, salary range, hiring dates, residency status, ward information, new hire justification and union requirements.
- B. The Employer will post all job vacancies in the DOES' Virtual One-Stop (VOS) at [www.jobs.dc.gov](http://www.jobs.dc.gov) within five (5) days of executing the Agreement. Should you need assistance posting job vacancies, please contact Job Bank at (202) 698-6001.
- C. The EMPLOYER will notify DOES, by way of the First Source Office of its Specific Need for new employees for the Project, within at least five (5) business days (Monday - Friday) upon Employers identification of the Specific Need. This must be done before using any other referral source. Specific Needs shall include, at a minimum, the number of employees needed by job title, qualifications, hiring date, rate of pay, hours of work, duration of employment, and work to be performed.
- D. Job openings to be filled by internal promotion from the EMPLOYER'S current workforce do not need to be referred to DOES for placement and referral. However, EMPLOYER shall notify DOES of such promotions.

- E. The EMPLOYER will submit to DOES, prior to commencing work on the Project, the names, social security number, residency status and ward information of all current employees, including apprentices, trainees, and laid-off workers who will be employed on the Project.

### **III. REFERRAL**

- A. DOES will screen applicants and provide the EMPLOYER with a list of applicants according to the Notification of Specific Needs supplied by the EMPLOYER as set forth in Section II (B).
- B. DOES will notify the EMPLOYER, prior to the anticipated hiring dates, of the number of applicants DOES will refer.

### **IV. PLACEMENT**

- A. The EMPLOYER will make all decisions on hiring new employees but will, in good faith, use reasonable efforts to select its new hires or employees from among the qualified persons referred by DOES.
- B. In the event that DOES is unable to refer qualified personnel meeting the Employer's established qualifications, within five (5) business days (Monday - Friday) from the date of notification, from the EMPLOYER, the EMPLOYER will be free to directly fill remaining positions for which no qualified applicants have been referred. Notwithstanding, the EMPLOYER will still be required to hire 51% District residents for all new jobs created by the Project.
- C. After the EMPLOYER has selected its employees, DOES will not be responsible for the employees' actions and the EMPLOYER hereby releases DOES, and the Government of the District of Columbia, the District of Columbia Municipal Corporation, and the officers and employees of the District of Columbia from any liability for employees' actions.

### **V. TRAINING**

- A. DOES and the EMPLOYER may agree to develop skills training and on-the-job training programs; the training specifications and cost for such training will be mutually agreed upon by the EMPLOYER and DOES and will be set forth in a separate Training Agreement.

### **VI. CONTROLLING REGULATIONS AND LAWS**

- A. To the extent that this Agreement is in conflict with any federal labor laws or governmental regulations, the federal laws or regulations shall prevail.
- B. DOES will make every effort to work within the terms of all collective bargaining agreements to which the EMPLOYER is a party.
- C. The EMPLOYER will provide DOES with written documentation that the EMPLOYER has provided the representative of any collective bargaining unit involved with this Project a copy of this Agreement and has requested comments or objections. If the representative has any comments or objections, the EMPLOYER will promptly provide them to DOES.

## **VII. EXEMPTIONS**

- A. All contracts, subcontracts or other forms of government-assistance less than \$100,000.
- B. Employment openings the contractor will fill with individuals already employed by the company.
- C. Job openings to be filled by laid-off workers according to formally established recall procedures and rosters.
- D. Construction or renovation contracts or subcontracts in the District of Columbia totaling less than \$500,000 are exempt from the requirements of Section I(H) and I(I) of the General Terms hereof.
- E. Non-profit organization with 50 or less employees are exempt from the requirements.

## **VIII. AGREEMENT MODIFICATIONS, RENEWAL, MONITORING, AND PENALTIES**

- A. If, during the term of this Agreement, the EMPLOYER should transfer possession of all or a portion of its business concerns affected by this Agreement to any other party by lease, sale, assignment, merger, or otherwise this First Source Agreement shall remain in full force and effect and transferee shall remain subject to all provisions herein. In addition, the EMPLOYER as a condition of transfer shall:
  - 1. Notify the party taking possession of the existence of this EMPLOYER's First Source Employment Agreement.
  - 2. Notify DOES within seven (7) business days of the transfer. This advice will include the name of the party taking possession and the name and telephone of that party's representative.
- B. DOES will monitor EMPLOYER'S performance under this Agreement. The EMPLOYER will cooperate with the DOES monitoring and will submit a Contract Compliance Form to DOES monthly.
- C. To assist DOES in the conduct of the monitoring review, the EMPLOYER will make available to DOES, upon request, payroll and employment records for the review period indicated for the Project.
- D. The Employer will provide DOES additional information upon request.
- E. With the submission of the final request for payment from the District, the EMPLOYER shall:
  - 1. Document in a report to DOES its compliance with the requirement that 51% of the new employees hired by the EMPLOYER for the Project be District residents; or
  - 2. Submit to DOES a request for a waiver of compliance of the requirement that 51% of the new employees hired by the EMPLOYER the Project be District residents which will include the following documentation:
    - a. Documentation supporting EMPLOYER's good faith effort to comply;

- b. Referrals provided by DOES and other referral sources; and
  - c. Advertisement of job openings listed with DOES and other referral sources.
- F. The DOES may waive the requirement that 51% of the new employees hired by the EMPLOYER for the Project be District residents, if DOES finds that:
- 1. A good faith effort to comply is demonstrated by the EMPLOYER; or
  - 2. The EMPLOYER is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area:  
  

The Washington Standard Metropolitan Statistical Area includes the District of Columbia, the Virginia Cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg; the Virginia Counties of Fairfax, Arlington, Prince William, Loudoun, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.
  - 3. the EMPLOYER enters into a special workforce development training or placement arrangement with DOES; or
  - 4. DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the EMPLOYER for the positions created as a result of the Project. No failure by Employer to request a waiver under any other provision hereunder shall be considered relevant to a requested waiver under this Subsection.
- G. Willful breach of the First Source Employment Agreement by the EMPLOYER, failure to submit the Contract Compliance Report, or deliberate submission of falsified data, may be enforced by the DOES through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract for the positions created by EMPLOYER.
- H. The Parties acknowledge that the provisions of E and F of Article VIII apply only to First Source hiring.
- I. Nonprofit organizations with 50 or less employees are exempt from the requirement that 51% of the new employees hired by the EMPLOYER on the Project be District residents.
- J. The EMPLOYER and DOES, or such other agent as DOES may designate, may mutually agree to modify this Agreement.
- K. The EMPLOYER's noncompliance with the provisions of this Agreement may result in termination.

**IX. LOCAL, SMALL, DISADVANTAGED BUSINESS ENTERPRISE**

- A. Is your firm a certified Local, Small, Disadvantaged Business Enterprise (LSDBE)?  
 \_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, certification number: \_\_\_\_\_

**X. APPRENTICESHIP PROGRAM**

A. Do you have a registered Apprenticeship program with the D.C. Apprenticeship Council?

\_\_\_\_ YES \_\_\_\_ NO

If yes, D.C. Apprenticeship Council Registration Number: \_\_\_\_\_

**XI. SUBCONTRACTOR**

A. Is your firm a subcontractor on this project?

\_\_\_\_ YES \_\_\_\_ NO

If yes, name of prime contractor: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
Signature Dept. of Employment Services

\_\_\_\_\_  
Signature of Employer

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
E-mail

**EMPLOYMENT PLAN**

NAME OF EMPLOYER: \_\_\_\_\_

ADDRESS OF EMPLOYER: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FEDERAL IDENTIFICATION NO.: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ TYPE OF BUSINESS: \_\_\_\_\_

DISTRICT CONTRACTING AGENCY: \_\_\_\_\_

CONTRACTING OFFICER: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

TYPE OF PROJECT: \_\_\_\_\_ CONTRACT AMOUNT: \_\_\_\_\_

EMPLOYER CONTACT AMOUNT: \_\_\_\_\_

PROJECT START DATE: \_\_\_\_\_ PROJECT END DATE: \_\_\_\_\_

EMPLOYER START DATE: \_\_\_\_\_ EMPLOYER END DATE: \_\_\_\_\_

**NEW JOB CREATION PROJECTIONS:** Please indicate ALL new position(s) your firm will create as a result of the Project. If the firm WILL NOT be creating any new employment opportunities, please complete the attached justification sheet with an explanation. Attach additional sheets as needed.

TITLE	# OF JOBS F/T P/T	SALARY RANGE	UNION MEMBERSHIP REQUIRED NAME LOCAL#	PROJECTED HIRE DATE
A				
B				
C				
D				
E				
F				
G				
H				
I				
J				
K				



## ATTACHMENT G

### DCSEU CONFLICT OF INTEREST POLICY AND DISCLOSURE FORM

April, 2020

DCSEU employees and subcontractors are subject to the District of Columbia Sustainable Energy Utility's (DCSEU) Conflict of Interest Policy. All DCSEU employees and subcontractors are expected to represent the DCSEU in a positive and ethical manner at all times, and to refrain from any activities that compromise their ability to objectively represent the DCSEU's best interests. To ensure that decisions about DCSEU policy, operations, procurement of good and services, and the use or disposition of DCSEU assets are made solely in terms of the benefits to DCSEU and for the purposes set forth in VEIC's Prime Contract with the District Department of Energy and the Environment (DOEE), employees and subcontractors are prohibited from engaging in activities, practices, or conduct which conflicts with, or appears to conflict with, DCSEU's interests.

Since it is impossible to describe all of the situations that may cause or give the appearance of a conflict of interest, specific prohibitions included in this policy are not intended to be exhaustive and include only some of the more clear examples:

- Employees may not accept any employment relationship with any organization that does business with, or competes with DCSEU, while employed by or serving the DCSEU. This includes serving as an advisor, consultant, contractor or subcontractor to any organization of this type, unless the activity is conducted as an employee of DCSEU.
- Employees may not independently perform any of the types of services for fees that DCSEU provides for fees for any organization or individual while employed by DCSEU without prior approval from the Chief Executive Officer.
- Employees and subcontractors must disclose any financial interest (except incidental common stock ownership or participation in mutual funds) that they or their immediate family has in any company that does business with or competes with DCSEU, in any situation where that employee or subcontractor is in a position to make a decision that could pose a conflict or appearance of a conflict of interest. The purpose of such disclosure is to be able to evaluate the potential for conflict of interest. DCSEU may require the person to withdraw herself /himself from any decision where the financial interest could be considered to be in conflict with the best interests of DCSEU.
- Employees and subcontractors may not accept, give, offer, or promise, either directly or indirectly, any gifts valued at over \$20 to a DOEE employee, or valued at over \$100 to a DCSEU employee, any representative of Subcontractor, a customer, a potential customer, or a financial institution in connection with any transaction or business that the DCSEU may perform. Any gifts valued at over \$100 that are received by a DCSEU employee must be promptly returned or turned over to VEIC's Chief Executive Officer.

If an actual or potential conflict of interest is identified by an employee or subcontractor, VEIC's Chief Executive Director must be promptly notified in writing and they will make a determination of the appropriate response and any action(s) to be taken.

Employees and subcontractors must also disclose on an annual basis any additional interests such as a list of family members, substantial business or investment holdings and other transactions or affiliations with businesses or organizations that might be related to DCSEU's interests.

In addition, DCSEU’s auditors will periodically review any potential excess benefit transactions as well as compensation arrangements, partnerships, joint ventures, and any other arrangements with management organizations to prevent inurement, impermissible private benefit, or an excess benefit transaction.

---

Check **one** of the following and sign:

By signing this document, I attest that I have read and understand the DCSEU Conflict of Interest Policy, I agree to abide by its provisions, and I do not have any actual or potential Conflict of Interest to report.

By signing this document, I attest that I have read and understand the DCSEU Conflict of Interest Policy, I agree to abide by its provisions, and I am reporting the following relationships and interests related to DCSEU’s business:

---

---

---

---

---

**SUBCONTRACTOR:**

Signature:

Print Name:

Date:

---

---

---

## ATTACHMENT H

### SPECIAL REQUIREMENTS

- A. **LIVING WAGE RATE.** Subcontractor will pay its employees and subcontractors who perform services under this Subcontract not less than the current living wage published on the Office of Contracting and Procurement (“OCP”) website at [www.ocp.dc.gov](http://www.ocp.dc.gov).
- B. **FACT SHEET; NOTICE.** Subcontractor will provide a copy of the Fact Sheet referenced at <http://ocp.dc.gov/sites/default/files/dc/sites/ocp/publication/attachments/LIVING%20WAGE%20ACT%20FACT%20SHEET2%202016.pdf> to each employee and subcontractor who performs services under this Subcontract. If this Subcontract is for \$15,000 or more, Subcontractor will post in a conspicuous place in its place of business the Way to Work Amendment Act of 2006 – Living Wage Notice: <http://does.dc.gov/page/living-wage-act-2016-notice>.
- C. **PAYROLL RECORDS MAINTENANCE.** Subcontractor will maintain its Certified Payroll Records under the Subcontract in the regular course of business for a period of at least three (3) years from the payroll date, and will include this requirement in its subcontracts under this Subcontract.
- D. **RIGHTS OF EXAMINATION.** If this Subcontract is for \$100,000 or more, and (a) is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type of contract or any combination of these; (b) requires cost or pricing data; or (c) requires Subcontractor to furnish reports as required of VEIC in the Prime Contract; Subcontractor will comply with the provisions contained in clause D:
1. Records. As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.
  2. Examination of Costs. Subcontractor will maintain and VEIC, or an authorized representative of VEIC, will have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this Subcontract. This right of examination will include inspection at all reasonable times of Subcontractor’s plants, or parts of them, engaged in performing this Subcontract.
  3. Examination of Transaction Records. The CO, the Inspector General and the District Auditor, VEIC or any of their duly authorized representatives, will have access to and the right to examine any of Subcontractor’s directly pertinent records involving transactions related to this Subcontract or a subcontract hereunder. This paragraph may not be construed to require Subcontractor to create or maintain any

record that Subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

4. Reports. If Subcontractor is required to furnish cost, funding, or performance reports, the CO or an authorized representative of the CO, or VEIC will have the right to examine and audit the supporting records and materials, for the purpose of evaluating the effectiveness of Subcontractor's policies and procedures to produce data compatible with the objectives of these reports, and the data reported.
  5. Availability. Subcontractor will make available to DOEE at its office or VEIC at all reasonable times the records, materials, and other evidence described in Section D., for examination, audit, or reproduction, until three (3) years after final payment under this Subcontract, or for any longer period required by statute or by other clauses of this Subcontract. In addition:
    - (a) Post-Termination. If this Subcontract is completely or partially terminated, Subcontractor will make available the records relating to the work terminated until three (3) years after any resulting final termination settlement; and
    - (b) Litigation. Subcontractor will make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this Subcontract until such appeals, litigation, or claims are finally resolved.
  6. Subcontractor shall insert a clause containing all the terms of this Section D, including this subsection D.6, in all its subcontracts under this Subcontract that exceed One Hundred Thousand Dollars (\$100,000), and:
    - (a) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;
    - (b) For which cost or pricing data are required; or
    - (c) That requires the Subcontractor's subcontractor to furnish reports as discussed in subsection D.4.
- E. NO STATEMENTS. Subcontractor shall at all times obtain prior approval from VEIC and the CA before it, any of its officers, agents, employees or subcontractors, makes any statement that may reflect on DOEE or the District, or states or implies it is speaking on behalf of DOEE or the District. Subcontractor shall at all times inform VEIC and the CA 48 hours in advance before it, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of this Subcontract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this Subcontract.**
- F. FOIA.** The District of Columbia Freedom of Information Act, at D.C. Official Code §2-532 (a-3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform

a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If Subcontractor receives a request for such information, Subcontractor will immediately send the request to the CA who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by Subcontractor pursuant to this Subcontract, the CA will forward a copy to Subcontractor. In either event, Subcontractor is required by law to provide all responsive records to the CA within the timeframe designated by the CA. The FOIA Officer for the agency with programmatic responsibility will determine the release-ability of the records.

**G. DC HUMAN RIGHTS ACT.**

§ 2-1402.01. General. Every individual will have an equal opportunity to participate fully in the economic, cultural and intellectual life of the District and to have an equal opportunity to participate in all aspects of life, including, but not limited to, in employment, in places of public accommodation, resort or amusement, in educational institutions, in public service, and in housing and commercial space accommodations.

§ 2-1402.11. Prohibitions. General. It will be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based upon the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, or political affiliation of any individual.

**H. AMERICANS WITH DISABILITIES ACT OF 1990 (ADA).** During the performance of this Subcontract, Subcontractor will comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. §12101 et seq.

**I. SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED.** During the performance of this Subcontract, Subcontractor will comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded programs and activities. See 29 U.S.C. § 794 et seq.

**J. NON DISCRIMINATION CLAUSE.**

1. The Subcontractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, approved December 13, 1977, as amended (D. C. Law 2-38; D. C. Official Code §2-1402.11) (2001 Ed.) (“Act” as used in this Section). The Subcontractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, Subcontractor agrees and all of Subcontractor’s subcontractors shall agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause as provided in Section 251 of the Act.

2. Pursuant to rules of the Office of Human Rights, published on August 15, 1986 in the D. C. Register, Mayor's Order 2002-175 (10/23/02), 49 DCR 9883 and Mayor's Order 2006-151 (11/17/06), 52 DCR 9351, the following clauses apply to this Subcontract:
  - (a) The Subcontractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.
  - (b) The Subcontractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business. The affirmative action shall include, but not be limited to the following:
    - i. employment, upgrading or transfer;
    - ii. recruitment, or recruitment advertising;
    - iii. demotion, layoff, or termination;
    - iv. rates of pay, or other forms of compensation; and
    - v. selection for training and apprenticeship.
3. The Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the District Contracting Agency, setting forth the provisions in subsections J.2(a) and J.2(b) concerning non-discrimination and affirmative action.
4. The Subcontractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Subcontractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection J.2(b).
5. The Subcontractor agrees to 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 by the contracting agency, advising the said labor union or workers' representative of the Subcontractor's commitments under

this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

6. The Subcontractor agrees to permit access to his books, records and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of Human Rights or designee, for purposes of investigation to ascertain compliance with this chapter, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors' books, records, and accounts for such purposes.
  7. The Subcontractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director of the Office of Human Rights, or any authorized official.
  8. The Subcontractor shall include in every subcontract the equal opportunity clauses, subsections 1 through 9 of this Section, so that such provisions shall be binding upon each subcontractor vendor.
  9. The Subcontractor shall take such action with respect to any subcontract as the CO may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Subcontractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Subcontractor may request the District to enter into such litigation to protect the interest of the District.
- K. DC LANGUAGE ACCESS ACT OF 2004.** For any customers with limited or no-English proficiency to whom Subcontractor provides services, Subcontractor will inform the Project Manager of the customer's name and contact information. If directed by VEIC, Subcontractor will provide written materials to such customers informing them of the opportunity to obtain language assistance services; all such written materials will be supplied to Subcontractor by VEIC.
- L. NATIONAL HISTORIC PRESERVATION ACT.** Subcontractor must comply with the requirement of the National Historic Preservation Act (Section 106) by cooperating with VEIC in obtaining a written concurrence of no objection from the State Historic Preservation Officer of the District prior to conducting any work on a property that is listed in or eligible for listing in the National Register of Historic Places.
- M. OCCUPATIONAL HEALTH AND SAFETY ACT OF 1970.** During the performance of this Subcontract, Subcontractor will comply with all applicable requirements of the Occupational Health and Safety Act of 1970, as amended, including, but not limited to, the provisions of 29 CFR §1926 regarding lead paint.
- N. BUY AMERICAN ACT.**

1. The Buy American Act (41 U.S.C. §10a) provides that the District give preference to domestic end products.

“Components,” as used in this clause, means those articles, materials, and supplies incorporated directly into the end products.

“Domestic end product,” as used in this clause, means, (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States, exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the products referred to in paragraphs 2.b of this clause N. shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

“End products,” as used in this clause, means those articles, materials, and supplies to be acquired for public use under this Subcontract.

2. The Subcontractor shall deliver only domestic end products, except those:
  - (a) For use outside the United States;
  - (b) That the District determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;
  - (c) For which the District determines that domestic preference would be inconsistent with the public interest; or
  - (d) For which the District determines the cost to be unreasonable.

**O. SERVICE CONTRACT ACT OF 1965.**

1. Definitions. “Act,” as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. §351, *et seq.*).

“Contractor,” as used in this clause, means the prime Contractor or any subcontractor at any tier.

“Service employee,” as used in this clause, means any person (other than a person employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR 541) engaged in performing a District contract not exempted under 41 U.S.C. §356, the principal purpose of which is to furnish services in the United States, as defined in section 22.1001 of the Federal Acquisition Regulation. It includes all such persons regardless of the actual or alleged contractual relationship between them and a contractor.

2. Applicability. To the extent that the Act applies, this Subcontract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (20 CFR part 4). All interpretations of the Act in Subpart C of 29 CFR 4 are incorporated in this Subcontract by reference. This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. §356, as interpreted in Subpart C of 29 CFR 4.
3. Compensation.
  - (a) Each service employee employed in the performance of this Subcontract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any wage determination attached to this Subcontract.
  - (b) If a wage determination is attached to this Subcontract,<sup>1</sup> the Contractor shall classify any class of service employees not listed in it, but to be employed under this Subcontract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph. This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee.
    - i. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration (ESA), Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary;

---

<sup>1</sup> The following attachment is incorporated into the contract by reference: U.S. Department of Labor Wage Determination No. 2015-4281 Revision No. 4, dated December 30, 2016.

- ii. The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contracting Officer with a written copy of such determination or it shall be posted as a part of the wage determination;
- iii. The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed;
- iv. In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds to a contract under which the classification in question was previously conformed pursuant to this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (*i.e.*, adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in this clause need not be followed;
- v. No employee engaged in performing work on this Subcontract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

The wage rate and fringe benefits finally determined under this clause shall be paid to all employees performing in the classification from the

first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this Subcontract;

vi. Upon discovery of failure to comply with this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits, which shall be retroactive to the date such class or classes of employees commenced contract work.

(c) If the term of this Subcontract is more than one (1) year, the minimum wages and fringe benefits required for service employees under this Subcontract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by ESA.

(d) The Contractor can discharge the obligation to furnish fringe benefits specified in the attachment or determined under paragraph (b) of this clause by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, in accordance with Subpart B and C of 29 CFR 4.

4. Minimum wage: In the absence of a minimum wage attachment for this Subcontract, the Contractor shall not pay any service or other employees performing this Subcontract less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §206). Nothing in this clause shall relieve the Contractor of any other legal or contractual obligation to pay a higher wage to any employee.

5. Successor contracts: If this Subcontract succeeds a contract subject to the Act under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then, in the absence of a minimum wage attachment to this Subcontract, the Contractor may not pay any service employee performing this Subcontract less than the wages and benefits, including those accrued and any prospective increases, provided for under that agreement. No Contractor may be relieved of this obligation unless the limitations of 29 CFR 4.1c(b) apply or unless the Secretary of Labor or the Secretary's authorized representative:

(a) Determines that the agreement under the predecessor was not the result of arms-length negotiations; or

(b) Finds, after a hearing under 29 CFR 4.10, that the wages and benefits provided for by that agreement vary substantially from those prevailing for similar services in the locality or determines, as provided in 29 CFR 4.11, that the

collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and 4.11 and parts 6 and 8 that some or all of the wages and fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

6. Notification to employees: The Contractor shall notify each service employee commencing work on this Subcontract of a minimum wage and any fringe benefits required to be paid, or shall post a notice of these wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.
7. Safe and sanitary working conditions: The Contractor shall not permit services called for by this Subcontract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor that are unsanitary, hazardous, or dangerous to the health or safety of service employees. The Contractor shall comply with the health standards applied under 29 CFR Part 1925.
8. Records: The Contractor shall maintain for three (3) years from the completion of work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:
  - (a) For each employee subject to the Act:
    - i. Name and address;
    - ii. Work classification or classifications, rate or rates of wages and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
    - iii. Daily and weekly hours worked; and
    - iv. Any deductions, rebates, or refunds from total daily or weekly compensation.

- (b) For those classes of service employees not included in any wage determination attached to this Subcontract, wage rates or fringe benefits determined by the interested parties or by ESA under the terms of subsection O.3(b). A copy of the report required by paragraph 12(a) of this clause will fulfill this requirement.
  - (c) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by this clause. The Contractor shall also make available a copy of this Subcontract for inspection or transcription by authorized representatives of the Wage and Hour Division. Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this Subcontract, and in the case of failure to produce these records, the CO, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases. The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.
9. Pay periods: The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.
10. Withholding of payments and termination of contract: The Contracting Officer shall withhold from the prime Contractor under this or any other District contract with the prime Contractor any sums the Contracting Officer, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination for default. In such event, the District may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.
11. Subcontracts: The Contractor agrees to insert this clause in all subcontracts.
12. Contractor's report:
- (a) If there is a wage determination attachment to this Subcontract and any classes of service employees not listed on it are to be employed under this

Subcontract, the Contractor shall report promptly to the CO the wages to be paid and the fringe benefits to be provided each of these classes.

(b) If wages to be paid or fringe benefits to be furnished any service employees under this Subcontract are covered in a collective bargaining agreement effective at any time when this Subcontract is being performed, the Contractor shall provide to the Contracting Officer a copy of the agreement and full information on the application and accrual of wages and benefits (including any prospective increases) to service employees working on this Subcontract. The Contractor shall report when contract performance begins, in the case of agreements then in effect, and shall report subsequently effective agreements, provisions, or amendments promptly after they are negotiated.

13. Contractor's Certification: By entering into this Subcontract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded District contracts by virtue of the sanctions imposed under section 5 of the Act. No part of this Subcontract shall be subcontracted to any person or firm ineligible for award of a District contract under section 5 of the Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. §1001.
14. Variations, tolerances, and exemptions involving employment: Notwithstanding any of the provisions in paragraphs 1 through 13 of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor.
  - (a) In accordance with regulations issued under Section 14 of the Fair Labor Standards Act of 1938 by the Administrator of the Wage and Hour Division, ESA (29 CFR 520, 521, 524, and 525), apprentices, student learners, and workers whose earning capacity is impaired by age or by physical or mental deficiency or injury, may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act, without diminishing any fringe benefits or payments in lieu of these benefits required under section 2(a)(2) of the Act.
    - i. The Administrator will issue certificates under the Act for employing apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages, but without changing requirements concerning fringe benefits or supplementary cash payments in lieu of these benefits.
    - ii. The Administrator may also withdraw, annul, or cancel such certificates under 29 CFR 525 and 528.

- (b) An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips shall be credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with regulations in 29 CFR 531. However, the amount of credit shall not exceed 40 percent of the minimum rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 as amended.

**P. PREGNANT WORKERS FAIRNESS.**

1. Subcontractor shall comply with the Protecting Pregnant Workers Fairness Act of 2016, D.C. Official Code § 32-1231.01 et seq. (PPWF Act).
2. Subcontractor shall not:
  - (a) Refuse to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding for an employee, unless Subcontractor can demonstrate that the accommodation would impose an undue hardship;
  - (b) Take an adverse action against an employee who requests or uses a reasonable accommodation in regard to the employee's conditions or privileges of employment, including failing to reinstate the employee when the need for reasonable accommodations ceases to the employee's original job or to an equivalent position with equivalent:
    - i. Pay;
    - ii. Accumulated seniority and retirement;
    - iii. Benefits; and
    - iv. Other applicable service credits.
  - (c) Deny employment opportunities to an employee, or a job applicant, if the denial is based on the need of the employer to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding;
  - (d) Require an employee affected by pregnancy, childbirth, related medical conditions, or breastfeeding to accept an accommodation that the employee chooses not to accept if the employee does not have a known limitation related to pregnancy, childbirth, related medical conditions, or breastfeeding or the accommodation is not necessary for the employee to perform her duties;

- i. Require an employee to take leave if a reasonable accommodation can be provided; or
  - ii. Take adverse action against an employee who has been absent from work as a result of a pregnancy-related condition, including a pre-birth complication.
3. Subcontractor shall post and maintain in a conspicuous place a notice of rights in both English and Spanish and provide written notice of an employee's right to a needed reasonable accommodation related to pregnancy, childbirth, related medical conditions, or breastfeeding pursuant to this chapter to:
  - (a) New employees at the commencement of employment;
  - (b) Existing employees; and
  - (c) An employee who notifies the employer of her pregnancy, or other condition covered by this chapter, within 10 days of the notification.
4. Subcontractor shall provide an accurate written translation of the notice of rights to any non-English or non-Spanish speaking employee.
5. Violations of the PPWF Act shall be subject to civil penalties as described in the Act.

**Q. UNEMPLOYED ANTI-DISCRIMINATION.**

1. Subcontractor shall comply with the Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 *et seq.*
2. Subcontractor shall not:
  - (a) Fail or refuse to consider for employment, or fail or refuse to hire, an individual as an employee because of the individual's status as unemployed; or
  - (b) Publish, in print, on the Internet, or in any other medium, an advertisement or announcement for any vacancy in a job for employment that includes:
    - i. Any provision stating or indicating that an individual's status as unemployed disqualifies the individual for the job; or
    - ii. Any provision stating or indicating that an employment agency will not

consider or hire an individual for employment based on that individual's status as unemployed.

- (c) Violations of the Unemployed Anti-Discrimination Act shall be subject to civil penalties as described in the Act.

**R. FAIR CRIMINAL RECORD SCREENING.**

1. The Subcontractor shall comply with the provisions of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152) (the “Act” as used in this section). This section applies to any employment, including employment on a temporary or contractual basis, where the physical location of the employment is in whole or substantial part within the District of Columbia.
2. Prior to making a conditional offer of employment, the Subcontractor shall not require an applicant for employment, or a person who has requested consideration for employment by Subcontractor, to reveal or disclose an arrest or criminal accusation that is not then pending or did not result in a criminal conviction.
3. After making a conditional offer of employment, Subcontractor may require an applicant to disclose or reveal a criminal conviction.
4. Subcontractor may only withdraw a conditional offer of employment, or take adverse action against an applicant, for a legitimate business reason as described in the Act.
5. This Section and the provisions of the Act shall not apply:
  - (a) Where a federal or District law or regulation requires the consideration of an applicant’s criminal history for the purposes of employment;
  - (b) To a position designated by the employer as part of a federal or District government program or obligation that is designed to encourage the employment of those with criminal histories;
  - (c) To any facility or employer that provides programs, services, or direct care to, children, youth, or vulnerable adults; or
  - (d) To employers that employ less than 11 employees.

6. A person claiming to be aggrieved by a violation of the Act may file an administrative complaint with the District of Columbia Office of Human Rights, and the Commission on Human Rights may impose monetary penalties against Subcontractor.

**S. ADDITIONAL STATUTES AND REGULATIONS.**

1. Subcontractor shall comply with the following statutes and regulations, as amended:
  - (a) The Hatch Act, ch. 314, 24 Stat. 440 (7 U.S.C. § 361a et seq.);
  - (b) The Hobbs Act (Anti-Corruption), ch. 537, 60 Stat. 420 (see 18 U.S.C. § 1951);
  - (c) Equal Pay Act of 1963, Pub. L. 88-38, June 10, 1963; 77 Stat. 56 (29 U.S.C. § 201);
  - (d) Age Discrimination Act of 1975, Pub. L. 94-135, Nov. 28, 1975; 89 Stat. 728 (42 U.S.C. § 6101 et seq.);
  - (e) Discrimination in Employment Act, Pub. L. 90-202, Dec. 15, 1967; 81 Stat. 602 (29 U.S.C. § 621 et seq.);
  - (f) Military Selective Service Act of 1948; ch. 625, 62 Stat. 604 (50 U.S.C. § 3801 et seq.);
  - (g) Title IX of the Education Amendments of 1972, Pub. L. 92-318, June 23, 1972; 86 Stat. 235 (20 U.S.C. § 1001);
  - (h) Immigration Reform and Control Act of 1986, Pub. L. 99-603, Nov 6, 1986; 100 Stat. 3359, (8 U.S.C. § 1101);
  - (i) Executive Order 12459 (Debarment, Suspension and Exclusion);
  - (j) Medical Leave Act of 1993, Pub. L. 103-3, Feb. 5, 1993, 107 Stat. 6 (5 U.S.C. § 6381 et seq.);
  - (k) Drug Free Workplace Act of 1988, Pub. L. 100-690, 102 Stat. 4304 (41 U.S.C. § 701 et seq.). Specifically, Subcontractor shall no later than 30 calendar days after the Effective Date of this Subcontract (unless a longer period is agreed to in writing):

Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Subcontractor's workplace and

specifying the actions that will be taken against employees for violations of such prohibition;

- i. Establish a drug-free awareness program to inform employees about:
  - The dangers of drug abuse in the workplace;
  - Subcontractor policy of maintaining a drug-free workplace;
  - Any available drug counseling, rehabilitation, and employee assistance programs; and
  - The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace; and
- (l) Provide all employees engaged in performance of this Subcontract with a copy of the statement required by the law;
- (m) Assurance of Nondiscrimination and Equal Opportunity, found in 29 CFR § 34.20;
- (n) Title VI of the Civil Rights Act of 1964;
- (o) Lobbying Disclosure Act of 1995, Pub. L. 104-65, Dec 19, 1995; 109 Stat. 693, (31 U.S.C. § 1352); and
- (p) Child and Youth, Safety and Health Omnibus Amendment Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 4-1501.01 et seq.). In accordance with this act, any person who may, pursuant to this Subcontract, potentially work directly with any child (an individual younger than age 13), or any youth (an individual from age 13 through age 17) shall complete a background check that meets the requirements of the District's Department of Human Resources.
- (q) Youth Bullying Prevention Act of 2012, effective Sept. 14, 2012 (D.C. Law 19-167; D.C. Official Code § 2-1535.01 et seq.). In accordance with this act, Subcontractor or any of its subcontractors that, on behalf of the District or through District funding, provides services, activities, or privileges to youth (an individual age 21 or younger), must adopt and enforce a bullying prevention policy that meets the requirements of the act.
- (r) Subcontractor will comply with all applicable District and federal environmental standards that may be prescribed, as amended.



DISTRICT OF COLUMBIA SUSTAINABLE ENERGY UTILITY

<b><i>DC SUSTAINABLE ENERGY UTILITY PROJECT</i></b>									
DATE OF HIRE	DATE OF DEPARTURE	EMPLOYEE NAME	LAST 4 OF SSN	ADDRESS	CITY AND STATE	ZIP CODE	HOURLY RATE OF PAY	DC WARD (IF APPLICABLE)	DESCRIPTION OF JOB

80 M Street SE, Suite 310, Washington, DC 20003 • [www.dcseu.com](http://www.dcseu.com)  
 Phone: 202-479-2222 • Toll-free: 855-MY-DCSEU/ 855-693-2738 • Fax: 202-450-1552

**U.S. Department of Labor**  
Wage and Hour Division

**PAYROLL**

**(For Contractor's Optional Use; See Instructions at [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/whd/forms/wh347instr.htm))**

*Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.*



U.S. Wage and Hour Division  
Rev. Dec. 2008

OMB No.: 1215-0149  
Expires: 12/31/2011

NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>	ADDRESS	
PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION
		PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING DEDUCTIONS	(3) WORK CLASSIFICATION	DT. OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX		OTHER	TOTAL DEDUCTIONS	
			D																
			S																
			D																
			S																
			D																
			S																
			D																
			S																
			D																
			S																
			D																
			S																
			D																
			S																

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

**Public Burden Statement**

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210

(over)



## ATTACHMENT I

### DISTRICT OF COLUMBIA SUSTAINABLE ENERGY UTILITY GENERAL CONFIDENTIALITY GUIDELINES MEMO

The Vermont Energy Investment Corporation (VEIC) operates District of Columbia Sustainable Energy Utility (DCSEU) on behalf of District of Columbia Department of Energy and Environment. In carrying out these duties VEIC and its subcontractors will have access to and receive large amounts of data from the utilities and other sources. Most of this data is Confidential Information as defined below. VEIC has established the Confidential Information Management System (“CIMS”) to ensure that there are procedures in place to ensure the proper handling of DCSEU’s confidential information.

The basic underlying principle for all DCSEU Confidential Information is that it is to be used by VEIC and subcontractor staff only for the purposes of implementing DCSEU energy efficiency and renewable energy services. Thus, no Confidential Information should be made available to the public or provided to any VEIC or subcontractor staff who will not be using the Confidential Information for DCSEU purposes.

This memo provides procedures and guidelines for the handling of DCSEU confidential information by VEIC staff and subcontractors.

#### **The CIMS Coordinator**

VEIC has established the position of “CIMS Coordinator” to maintain the adequacy of current procedures and guidelines to assure that the contractual obligations with respect to the handling of Confidential Information are met.

Specifically the CIMS Coordinator is responsible for:

1. Ensuring that all VEIC Employees, all DCSEU Subcontractor staff and any other individuals who have access to the Confidential Information have read and understand the General Confidentiality Guidelines Memo prior to gaining access to the Confidential Information. The memo will be provided prior to the granting of access to the Confidential Information.
2. Ensuring that all VEIC Employees, all DCSEU Subcontractor staff and any other individuals who have access to Confidential Information have signed the Protective Agreement (Attachment I2). The CIMS Coordinator will ensure that each individual understands their obligations as detailed in the Protective Agreement. The Protective Agreement shall be signed prior to the granting of access to the Confidential Information.
3. Determining whether or not a party requesting access to Confidential Information is actually providing DCSEU services and will use such Confidential Information strictly for DCSEU purposes.
4. Determining whether or not data or any particular item of information is or is not Confidential Information as defined above.
5. Conducting investigations into any alleged compromises, incidents and/or problems regarding Confidential Information, and reporting the results of such investigations to the DCSEU Senior Management Team.

6. If the results of such investigations determine that Confidential Information was actually improperly released, the CIMS Coordinator will immediately notify the District of Columbia Sustainable Energy Utility Contract Administrator. All prudent steps will be taken to ensure that no further Confidential Information is improperly disclosed. All prudent steps will be taken to retrieve such Confidential Information from the unauthorized receiving party.
7. Ensuring that all new VEIC and DCSEU subcontractor staff are provided with adequate training such that they fully understand the CIMS procedures and guidelines.
8. Revising or modifying CIMS procedures as deemed necessary to ensure the continued safeguard of Confidential Information. The CIMS Coordinator will obtain approval of the DCSEU Senior Management Team and District of Columbia Sustainable Energy Utility Contract Administrator prior to implementing any CIMS modifications.
9. Providing VEIC and DCSEU subcontractor staff with training on any CIMS modifications and as needed refresher training regarding the operation of CIMS.

### **Confidential Information**

Confidential Information consists of (1) customer-specific information, or (2) competitively sensitive information. Confidential Information is not restricted in format. It can be any material containing data meeting the definitions below, including without limitation, written or printed documents, electronic data, drawings, schematics, or any other tangible item.

#### ***Customer Specific Information***

"Customer-specific information" is defined as any information which specifically identifies a single customer using one or more unique references including, but not limited to, customer name, mailing address, phone numbers, e-mail addresses, and designations of physical location, electric utility usage data or electric utility account numbers. Generally, customer-specific information will be un-aggregated. However, if it is possible to ascertain customer-specific information from a collection of aggregated data then such aggregated data will be considered confidential. For example if a collection of data by municipality allowed one to determine information about a specific customer because there was clearly only one customer in a particular municipality then that data should be treated as confidential information.

#### ***Competitively Sensitive Information***

"Competitively-sensitive information" is defined as information that "could provide an unfair competitive advantage to an entity delivering services outside of the energy efficiency and renewable energy services approved by the District of Columbia Department of Energy and Environment for DCSEU implementation". The intent is to ensure that no information (either customer specific, aggregated customer data or market related data) is provided to any entity such that the entity would have an unfair advantage in providing non-DCSEU energy efficiency and renewable energy services over any other entities in its market. For example providing a particular HVAC contractor with data about the commercial new construction market could give that contractor an advantage over other HVAC contractors. The only information the HVAC contractor should have access to are data related to the specific customer to whom it was providing DCSEU energy efficiency and renewable energy services. Other examples of competitively sensitive market data may include, but is not limited to, customer surveys, aggregated sales data, load research and appliance saturation data.

## **Procedures for VEIC Employees and Subcontractor Staff**

1. All VEIC Employees and all DCSEU Subcontractor staff and other individuals will, prior to receiving any Confidential Information, be provided with this “General Confidentiality Guidelines Memo.”

VEIC and Subcontractor staff will also sign the attached Protective Agreement prior to gaining access to Confidential Information. The attached Protective Agreement states that they will access, use, or disclose to any other person, Confidential Information only for the purposes of implementing DCSEU energy efficiency and renewable energy services.

2. VEIC and Subcontractor staff will deny all requests for Confidential Information from any and all parties that are not providing DCSEU services. If there is any question as to whether or not the requesting party will be using the Confidential Information to provide DCSEU services, then this request will be referred to the CIMS Coordinator. If there is any question as to whether or not the information being requested is Confidential Information as defined above, such request will also be referred to the CIMS Coordinator.
3. VEIC and Subcontractor staff will verify with the CIMS Coordinator that any party that is authorized to receive Confidential Information has received a copy of the General Confidentiality Guidelines Memo and has signed the Protective Agreement prior to releasing any Confidential Information to such a party.
4. VEIC staff that are providing non-DCSEU services will not use any Confidential Information in providing these non-DCSEU services.
5. VEIC staff will ensure that any visitors to VEIC’s offices are not allowed access to any Confidential Information unless they are specifically authorized in accordance with these procedures.
6. All paper copies of Confidential Information that are being disposed of will first be shredded.
7. Any customer specific DCSEU project information that is used in any DCSEU promotional or marketing materials will not disclose the name, address or specific location of such customer. In addition specific permission to use customer specific DCSEU project information will be obtained directly from the customer prior to using this information.
8. VEIC and DCSEU subcontractor staff provided with a VEIC Computer Network Login to access VEIC’s computer network will adhere to the following password provisions:
  - Password must be seven characters in length or greater
  - They must contain any 2 of the following (alpha, numeric, capitalization, characters)
  - They must not be a dictionary word or include personal names
9. Portable, laptop, notebook, personal data assistants, tablet computers, smart phones and other transportable computers containing Confidential Information, must not be left unsecured at any time.
10. The CIMS Coordinator must be notified immediately when:

- Any materials or equipment containing or suspected of containing Confidential Information is lost, disclosed to unauthorized parties, or suspected of being lost or disclosed to unauthorized parties.
- Unauthorized use of DCSEU’s information systems has taken place, or is suspected of taking place.
- Network Logins and or passwords are lost, stolen, or disclosed, or are suspected of being lost, stolen, or disclosed.
- Any other problems or concerns regarding DCSEU’s Confidential Information Management Systems.

By executing this Memo, the undersigned agrees that due to the unique nature of the Confidential Information, any breach of this Memo and the procedures stated herein would cause irreparable harm for which damages are not an adequate remedy and that the party owning the Confidential Information, any party harmed by the disclosure of the Confidential Information and/or VEIC will be entitled to equitable relief, in addition to all other remedies available at law.

If further clarification or additional assistance is needed, please contact VEIC’s CIMS Coordinator by email: [cimscoordinator@veic.org](mailto:cimscoordinator@veic.org).

Please sign on the line below, indicating that you have read and understand this Memo; and acknowledging that you are required to abide by the procedures detailed in this Memo.

**SUBCONTRACTOR**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

## ATTACHMENT I2

### PROTECTIVE AGREEMENT

This PROTECTIVE AGREEMENT is made by and between the Vermont Energy Investment Corporation (“VEIC”) which operates the District of Columbia Sustainable Energy Utility (“DCSEU”), and **Subcontractor** (the “Recipient”), effective as of the Effective Date of this Subcontract.

In accordance with the DCSEU General Confidentiality Guidelines Memo, the Parties hereto agree as follows:

1. **Confidential Information and Materials**

- a. “Confidential Information” means information from any source whatsoever that is “customer-specific” or “competitively sensitive” as defined below that is received by Recipient or his/her employees, consultants, affiliates or related parties in connection with Recipient fulfilling his/her obligations and duties to VEIC and the DCSEU. Confidential Information is not restricted in format, and includes, without limitation, written or printed documents, electronic data, drawings, schematics, any other tangible item, and information that is communicated orally or visually.
- b. “Customer-specific information” is defined as any information which specifically identifies a single DCSEU customer using one or more unique references including, but not limited to, customer name, mailing address, phone numbers or e-mail addresses, designations of physical location, utility usage data or utility account numbers. Generally, customer-specific information will be un-aggregated. However, if it is possible to ascertain customer-specific information from a collection of aggregated data then such aggregated data shall be considered confidential.
- c. “Competitively-sensitive information” is defined as information that could provide an unfair competitive advantage to an entity delivering services outside of the energy efficiency and renewable services delivered by DCSEU. The intent is to ensure that no information (including, but not limited to, customer specific data, aggregated customer data or market related data) is provided to any entity such that the entity would have an unfair advantage in providing non-DCSEU energy efficiency and renewable energy services over any other entities.
- d. “Confidential Information” shall not include any materials or information which (i) is at the time of disclosure generally known by or available to the public or became so known or available thereafter through no act or omission of the Recipient; or (ii) is known to the Recipient and was not Confidential Information at the time of its original disclosure to the Recipient.

2. **Restrictions**

- a. The Recipient shall not disclose any Confidential Information to third parties unless VEIC has signed a non-disclosure agreement substantially similar to this Protective Agreement with such third parties. Furthermore, the Recipient shall not disclose any Confidential Information to any third parties unless such disclosure is reasonably related to the Recipient’s exercise of his/her obligations and duties to VEIC and the

DCSEU, and unless VEIC has specifically authorized such disclosure. Notwithstanding the above, the Recipient may disclose Confidential Information in accordance with judicial or other governmental orders, or pursuant to the District's Freedom of Information Act (D.C. Official Code §2-532), provided the Recipient shall give VEIC reasonable notice prior to such disclosure and shall comply with any applicable protective order or equivalent.

- b. The Recipient, and his/her assigns, shall not use any Confidential Information for any purposes except those consistent with the Recipient's fulfillment of his/her obligations and duties to VEIC and the DCSEU.
- c. The Recipient, and his/her assigns, shall take reasonable security precautions, which shall in any event be as great as the precautions it takes to protect the Recipient's own confidential information, to keep confidential the Confidential Information. The Recipient may disclose Confidential Information to his/her employees, consultants, affiliates or related parties only on a need-to-know basis, and only if such person has signed a protective agreement containing confidentiality obligations at least as restrictive as those contained herein. The Recipient shall instruct all of his/her employees, consultants, affiliates or related parties who have access to the information to maintain its confidentiality and to refrain from making unauthorized copies.
- d. The Recipient, and his/her assigns, employees, consultants, affiliates or related parties, who receive, or have access to, Confidential Information shall abide by and comply with the internal operating guidelines developed by VEIC regarding confidentiality as required by the DCSEU and the District, and any other confidentiality related directives which VEIC may promulgate from time to time.

3. **Rights and Remedies**

- a. The Recipient shall notify VEIC immediately upon discovery of any unauthorized use or disclosure of Confidential Information, or any other breach of this Protective Agreement by the Recipient or his/her assigns, employees, consultants, affiliates or related parties, and will cooperate with VEIC in every reasonable way to help regain possession of the Confidential Information and prevent its further unauthorized use or disclosure.
- b. Any willful or deliberate disclosure or unauthorized use of Confidential Information with the clear intent of violating this Protective Agreement by Recipient is grounds for immediate default termination.
- c. The Recipient understands and acknowledges that any disclosure or misappropriation of any of the Confidential Information in violation of this Protective Agreement may cause VEIC irreparable harm, the amount of which may be difficult to ascertain and, therefore, agrees that VEIC shall have the right to apply to a tribunal of competent jurisdiction for an order restraining any such further disclosure or misappropriation and for such other relief as VEIC may request. Such rights shall be in addition to remedies otherwise available to VEIC at law or in equity.

4. **Miscellaneous**

- a. This Protective Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. It shall not be modified except by a written agreement dated subsequent to the date of this Protective Agreement and signed by both Parties.
- b. None of the provisions of this Protective Agreement shall be deemed to have been waived by any act or acquiescence on the part of VEIC or their agents, or employees, unless such waiver is in writing signed by VEIC. No waiver of any provision of this Protective Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion. Failure of either Party to enforce any provision of this Protective Agreement shall not constitute waiver of such provision or any other provisions of this Protective Agreement.
- c. If any action at law or in equity is necessary to enforce or interpret the rights or obligations arising out of or relating to this Protective Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which it may be entitled.
- d. This Protective Agreement shall be construed and governed by the laws of the District of Columbia, and both Parties further consent to jurisdiction by courts located in the District of Columbia.
- e. If any provision of this Protective Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect. Should any of the obligations of this Protective Agreement be found illegal or unenforceable as being too broad with respect to the duration, scope or subject matter thereof, such obligations shall be deemed and construed to be reduced to the maximum duration, scope or subject matter allowable by law.
- f. If the Recipient is an organization that employs more than one individual then this Protective Agreement shall be strictly adhered to by all individuals, subcontractors and consultants employed by such organization that have access to Confidential Information.

IN WITNESS WHEREOF, the Parties hereto have executed this Protective Agreement by their duly authorized representatives as of the date first set forth above.

**SUBCONTRACTOR:**

**VEIC:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## ATTACHMENT J

### RIGHTS IN DATA

1. "Data," as used herein, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.
2. The term "Technical Data," as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.
3. The term "Computer Software," as used herein, means computer programs and computer databases. "Computer Programs," as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.
4. The term "computer databases," as used herein, means a collection of data in a form capable of being processed and operated on by a computer.
5. All data first produced in the performance of this Subcontract will be the sole property of the District. Subcontractor hereby acknowledges that all data, including, without limitation, computer program codes produced by Subcontractor for the District under this Subcontract, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Subcontractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. Subcontractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. Subcontractor agrees not to assert any rights in common law or in equity in such data. Subcontractor will not publish or reproduce such data in whole or in part or in

any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public.

6. The District will have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of this Subcontract, which the Parties have agreed will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights will include, as a minimum the right to:
  - 6.1 Use the computer software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any District installation to which the computer may be transferred by the District;
  - 6.2 Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
  - 6.3 Copy computer programs for safekeeping (archives) or backup purposes; and modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions will remain subject to these restrictions.
7. The restricted rights set forth in paragraph 6 are of no effect unless
  - (i) the data is marked by Subcontractor with the following legend:

<p><b>RESTRICTED RIGHTS LEGEND</b> Use, duplication, or disclosure is subject to restrictions stated in Subcontract No. DC-XXXX between Subcontractor and VEIC.</p>
---

and

- (ii) If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. Subcontractor may not place any legend on the computer software indicating restrictions on the District's rights in such software unless the restrictions are set forth in a license or agreement made a part of this Subcontract prior to the delivery date of the software. Failure of Subcontractor to apply a restricted rights legend to such computer software will relieve the District of liability with respect to such unmarked software.
8. In addition to the rights granted in paragraph 6 above, Subcontractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in paragraph 6 above, under any copyright owned by Subcontractor, in any work of authorship prepared for or acquired by the District under this Subcontract. Unless written approval of the Contracting Officer is obtained, Subcontractor

will not include in technical data or computer software prepared for or acquired by the District under this Subcontract any works of authorship in which copyright is not owned by Subcontractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.

9. Whenever any data, including computer software, are to be obtained from a subcontractor under this Subcontract, Subcontractor will use the terms of this **Attachment J, Rights in Data**, in the subcontract, without alteration, and no other clause will be used to enlarge or diminish the District's or Subcontractor's rights in that subcontractor's data or computer software which is required for the District.
10. For all computer software furnished to the District with the rights specified in paragraph 5, Subcontractor will furnish to the District, a copy of the source code with such rights of the scope specified in paragraph 5. For all computer software furnished to the District with the restricted rights specified in paragraph 6, the District, if Subcontractor, either directly or through a successor or affiliate will cease to provide the maintenance or warranty services provided the District under this Subcontract or any paid-up maintenance agreement, or if Subcontractor should be declared bankrupt or insolvent by a court of competent jurisdiction, will have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this Subcontract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.
11. Notwithstanding any additional indemnification provisions contained in the Subcontract, Subcontractor will indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Subcontract, or (ii) based upon any data furnished under this Subcontract, or based upon libelous or other unlawful matter contained in such data.
12. Nothing contained in this clause will imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.
13. Paragraphs 6, 7, 8, 11 and 12 above are not applicable to material furnished to Subcontractor by the District and incorporated in the work furnished under contract, provided that such incorporated material is identified by Subcontractor at the time of delivery of such work.

## ATTACHMENT K: MONTHLY SPEND REPORT

Date: Click or tap to enter a date.

**CONTRACTOR/SUBCONTRACTOR DETAILS:**

Company Name:	Click or tap here to enter text.
Subcontract Number:	Insert Subcontract Number
Subcontract MLA:	\$Insert Subcontract Value
CBE Number (If Applicable):	Enter CBE Number.
CBE Expiration Date (If Applicable):	Click or tap to enter a date.

**COMPANY'S SUBCONTRACTS TO LOWER TIER CBE OR NON-CBE ( ONE):**

- a) Company provided 100% of all services and/or products provided for the Entire Subcontract **using its own organization and resources** and did not subcontract ANY portion to a lower tier subcontractor.
- b) Company **subcontracted a portion of the Contract/Subcontract** to a lower tier subcontractor. (List EVERY CBE and non-CBE lower tier subcontractor below.)

Lower Tier Subcontractor Name (Full, Legal Name)	Lower Tier Subcontractor is: CBE or Non-CBE	Amount Paid to Lower Tier Subcontractor <i>This Month</i>	Total Amount of Lower Tier Subcontract	Amount Paid to Lower Tier Subcontractor to Date	Lower Tier CBE Certification Number (If Applicable)
	Select				

**MONTHLY SPEND SUMMARY:**

Total amount invoiced to the DCSEU for CHOOSE MONTH: \$00.00  
 Total amount completed by Company within its own organization and resources this month: \$00.00  
 Total amount subcontracted to SBE & CBE lower tier subcontractors this month: \$00.00  
 Total amount subcontracted to non-CBE lower tier subcontractors this month: \$00.00

**ATTACHMENT L**

**QUARTERLY VENDOR VERIFICATION FORM**



**VENDOR VERIFICATION FORM (“VVF”)**

**Year:** \_\_\_\_\_ **Quarter:** \_\_\_\_\_

**PART I. Agency Contract/ Project Details:**

**Contract/Project Name:**

(✓ one)

District Agency Contract:      Prime Contractor    District Agency & Contract #  
 Private Project:                      Beneficiary

**PART II. SBE/ CBE Contractor/ Subcontractor & Lower Tier Subcontractor Details:**

is an (✓ one) **SBE/CBE Subcontractor** **SBE/CBE Lower Tier Subcontractor** **SBE/CBE General Contractor** providing the following scope of work/ products **using its own organization and resources (specify)** :. The SBE/CBE Company’s CBE certification is active and the number is .

**PART III. SBE/CBE Company’s Subcontracts to Lower Tier SBE/CBE or Non-CBE Companies:**

(✓ one)

- a. SBE/CBE Company provided 100% of all services and/or products provided for the **Entire Project/Contract** **using its own organization and resources**, and did not subcontract any portion to a lower tier subcontractor. (*Skip to Part IV.*)
- b. SBE/CBE Company provided 100% of all services and/or products provided for the **Entire Subcontract** **using its own organization and resources**, and did not subcontract any portion to a lower tier subcontractor. (*Skip to Part IV.*)
- c. SBE/CBE Company **subcontracted a portion of the Contract/Subcontract** to a lower tier subcontractor. (List every CBE and non-CBE lower tier subcontractor.)

Lower Tier Subcontractor Name	Lower Tier Subcontractor is: SBE, CBE or Non-CBE	Total Amount of Lower Tier Subcontract	Amount Paid to Lower Tier Subcontractor This Quarter	Amount Paid to Lower Tier Subcontractor to Date	Detailed Description of lower tier subcontractor’s scope of work	CBE Certification Number	Fully Executed Lower Tier Subcontract provided with this VVF*
1.	Select	\$	\$	\$			Select
2.	Select	\$	\$	\$			Select

3.	Select	\$	\$	\$			Select
4.	Select	\$	\$	\$			Select

**\*THIS VVF WILL NOT BE ACCEPTED, AND NO CREDIT GIVEN, UNTIL THE FULLY EXECUTED CONTRACTS/ SUBCONTRACTS AND VVFs FOR ALL SBEs & CBEs LISTED IN PART III c. ARE PROVIDED!**

SBE/ CBE Subcontracting Credit will only be assessed for the portion of services & goods provided by each SBE/ CBE Company AND each SBE/ CBE Lower Tier Subcontractor **USING ITS OWN ORGANIZATION AND RESOURCES.**

**PART IV: Provide DETAILED Description of Scope of Work Provided by SBE/CBE Company:**

The total amount of the contract/subcontract = \$ (amount should include all change orders); the total amount subcontracted to SBE & CBE lower tier subcontractors = \$ (amount should include all change orders). SBE/CBE Company was paid total of \$ , during this quarter. The total amount SBE/CBE has been paid to date for portion of contract/subcontract performed with its own organization and resources is \$ \_ The remaining amount to be paid to the SBE/CBE Company for portion of contract/subcontract performed with its own organization and resources is \$ \_

---

**ACKNOWLEDGEMENT**

*I declare, certify, verify, attest or state under penalty of perjury that the information contained in this Vendor Verification Form, and any supporting documents submitted, are true and correct to the best of my knowledge and belief. I further declare, certify, verify, attest or state under penalty of perjury that I have the authority and specific knowledge of the goods and services provided under each contract/subcontract contained in this Vendor Verification Form. I understand that pursuant to D.C. Official Code § 22-2402, any person convicted of perjury shall be fined not more than \$5,000 or imprisoned for not more than 10 years, or both. I understand that any false or fraudulent statement contained in this Vendor Verification Form may be grounds for revocation of my CBE registration pursuant to D.C. Official Code § 2-218.63. I also understand that failure to complete this Vendor Verification Form properly will result in no credit towards the SBE and CBE Subcontracting Requirements. Further, a Prime Contractor, Developer, CBE, or Certified Joint Venture, if subject to, that fails to comply with the requirements of the Small and Certified Business Enterprise Development and Assistance Amendment Act of 2014 (D.C. Law 20-108) (the “Act”), shall be subject to penalties as outlined in the Act.*

**NOTARIZATION**

The undersigned, as a duly authorized representative of , CBE/SBE Company, swears or affirms that the statements made herein are true and correct.

Signature: \_\_\_\_\_

Title:

Print Name:

Date:

District of Columbia (or State/Commonwealth of \_\_\_\_\_); to wit:

Signed and sworn to or affirmed before me on this day of ,

, by , who is well known to me or has been sufficiently verified as the person who executed the foregoing affidavit and who acknowledged the same to be his/her free act and deed.

Notary signature: \_\_\_\_\_

(Seal)

My commission expires: \_\_\_\_\_

**ATTACHMENT M – SOLAR FOR ALL HOMEOWNER OWNER AGREEMENT**



**DC  
SUSTAINABLE ENERGY  
UTILITY**

[Subcontractor logo(s)]

Homeowner Installation, Operation & Maintenance Agreement

Homeowner/Client (“You”):	Your solar installer (“Installer”):
Name:	Company Name:
Address:	Address:
City, State, ZIP:	City, State, ZIP:
Phone:	Phone:
Email:	Email:

Dear Homeowner,

Congratulations on your decision to go solar! This program is administered by the District of Columbia Sustainable Energy Utility (“DCSEU”) on behalf of the Department of Energy and Environment (“DOEE”). This Homeowner Installation, Operation & Maintenance Agreement (this “ Homeowner Agreement” or “Agreement”) sets out the roles and responsibilities between you and the Installer listed above who is participating in the Solar for All program , for the following PV System:

Homeowner/Client Name	
Address for the PV System Installation	
Homeowner/Client Contact Information	
DCSEU Contact Information	DCSEU 80 M Street SE, Suite 310 Washington, D.C. 20003 Telephone: (202) 479-2222 or Toll-Free: (855) 693-2738 Email: <a href="mailto:solar@dcseu.com">solar@dcseu.com</a>
DCSEU Work Order Number	

PV System Size (kW DC)	XX kW
Agreement Term	20 years from the Interconnection Date
Estimated DCSEU Incentive	\$X.XX per watt, so for a X kW system, DCSEU's incentive is \$X,XXX which equals XX percent of the project costs.
<b>Your Cost for the PV System</b>	<b>\$0</b>

Below is a summary of your benefits and obligations under this Agreement. The full terms and conditions follow.

The **benefits** to you of participating in the Solar for All Program include the following, all **at no cost to you**:

- At least 20 years of solar power and guaranteed production of at least a 50% reduction in the average District of Columbia residential electric bills in 2016 (50% reduction equates to 4,200 kWh per year)
- A performance/production guarantee of your solar PV system that it will produce a minimum of 90% of weather-adjusted expected electricity output on an annual per-home true-up schedule. "Weather-adjusted" means adjusting the expected electricity output to remove the uncertainty related to weather variability in a given calendar year.
- A 20-year labor and installation warranty for your PV system, including the PV module, inverter, and optimizer or micro inverter;
- Operation, maintenance, and repairs for your solar PV system during the 20 year period;
- At least one removal and replacement of the PV system for any roof repairs or replacement you may need during the 20 year period; and
- Removal of the system at the end of the 20 year period (other options also available); and

Your **obligations** if you participate in the Solar for All Program:

- You agree to allow Installer to install the PV system and complete interconnection, and you agree to allow Installer to operate and maintain the system for the 20-year period. You agree to cooperate and provide access to your Installer and/or any other authorized party to install, inspect or make any necessary repairs to the system
- You may not remove the PV system in during the 20-year period except as may be required for roof repairs or if your home is structurally damaged beyond repair and the PV system is no longer operable.

- You must respond within 14 days to communications from your Installer to ensure the PV system is producing for the full 20-year period.
- You must contact your Installer prior to refinancing or selling your home, re-roofing or making repairs to your property that could affect the PV system's production. If you sell your home during the 20-year period, you understand that the new property owner will inherit your rights and obligations under this Agreement.
- If you rent your home during the 20-year period:
  - You may not increase rent for the property as a result of the benefit provided by the PV system installed on your property;
  - You must use good faith efforts to rent the property to an income-qualifying household; and
  - Your tenant(s) must provide the access specified in this Agreement for installation, maintenance, service, and repairs required for the PV system.
- You must not, nor allow any others to, shade or make modifications to the PV system. Only individuals or companies authorized by your Installer are allowed to make modifications or repairs to the PV system.
- You must cooperate and provide access to DCSEU, DOEE, third-party evaluators, and their authorized representatives to access the site for inspections of physical installations and to access the generation data for analysis and ongoing monitoring.
- You will continue to receive an electric bill from your utility and have the obligation to make payments directly to your utility provider. Your utility provider will charge you for any electricity consumed that exceeds the amount produced by the PV system through monthly bills.

Homeowner Installation, Operation & Maintenance Agreement  
Terms and Conditions

This Homeowner Installation, Operation & Maintenance Agreement (this “Homeowner Agreement” or “Agreement”) is the agreement between you (“Client” or “Homeowner”) and the Installer listed on the first page of this Agreement, covering the lease to you (at no cost to you) of the solar panel system (the “PV System”) described below. The PV System will be installed by Installer at the address you listed above. This Agreement will refer to this address as the “Property” or your “Home.” This Agreement has disclosures required by the Federal Consumer Leasing Act and, where applicable, state law. Installer provides you with the specified Limited Warranty as described below and in Exhibit 1 (the “Limited Warranty”).

**1. TERM AND PAYMENTS**

Installer will perform installation of your PV System and lease it to you beginning on the Interconnection Date. Interconnection Date is the date that the PV System is turned on and generating power. Your Installer will notify you by phone when your PV System is ready to be turned on. Beginning on the Interconnection Date, Installer agrees to lease you the PV System for 20 years (the “Term” of this Agreement.) at no cost to you. During the Term of the lease, you will receive all the electricity generated by the PV System for free. At least thirty (30) days prior to the expiration of the Term, either party may provide the other party with written notice to terminate the Agreement at the end of the Term. In the event of termination, you agree to contact Installer within ninety (90) days to schedule your PV System’s removal, and the PV System will be removed at no cost to you. In the event neither party has provided the other party with notice to terminate prior to the end of the Term, this Agreement will continue until you request that the PV System be removed, at which time it will then be removed at no cost to you. You will continue to receive the free electricity generated by the PV System, and the terms of this Agreement will continue to apply to both parties until you purchase the PV System, elect to have it removed, or your Installer terminates this Agreement.

Some substitution of equipment may be necessary due to supply constraints. Due to variation in equipment efficiency, it is possible that the number of modules or inverters may be increased or decreased to achieve the same output. Installer will notify you only if the size of the PV System increases or decreases by more than 5% as a result of equipment substitutions. Other PV System specifications will be provided to you separately.

You do not owe any down payments or progress payments for installation of the PV System, nor will you make any other payments during the Term of this Agreement. Instead, you will assign to Installer the rebates and incentive rights as described in Section 7 and consent to Installer’s assignment of those rebates and incentive rights as described in Section 8.

**2. CONDITIONS PRIOR TO INSTALLATION OF YOUR SYSTEM**

Installer’s obligations to install, lease, and service the PV System are conditioned on the following items having been completed to its reasonable satisfaction:

- a. completion of (i) the engineering site audit (a thorough physical inspection of the Property), (ii) the final PV System design, and (iii) real estate due diligence to confirm the suitability of the Property for the construction, installation, and operation of the PV System;
- b. receipt of all necessary zoning, land use, and building permits; and
- c. completion of any renovations, improvements or changes reasonably required at your Home or on the Property (e.g. removal of a tree, electrical upgrades, or roof repairs necessary to enable Installer to safely install the PV System).

Installer may terminate this Agreement without liability if, in their reasonable judgment, any of the above listed conditions (i) through (iii) will not be satisfied for reasons beyond Installer's reasonable control. Once Installer begins installation, however, it may not terminate this Agreement for the failure to satisfy conditions (i) through (iii) above.

### 3. SOLAR INSTALLATION

#### a. Equipment Installation and Design

Installer will select the equipment for the PV System and supply all equipment, parts, and tools for PV System installation in line with programmatic and funding requirements. Installer will ensure that the PV System design meets the requirements of the DCSEU Solar for All Program, local regulations, and utility (Pepco) requirements. As these programs operate under set parameters, requests for changes from homeowners to the PV System design or the number of panels will not be accommodated unless problems are identified that would prevent the PV System from being installed. PV System designs presented by Installer to homeowners are therefore generally considered final.

#### b. Timelines, Expectations and Steps

Installer will begin installation of your PV System on an agreed-upon date. Beginning of installation means when tools and materials arrive at the Property. Installer will advise you in writing or by phone if it needs to change that schedule. The timeline for completion of a PV System installation varies based on a number of factors that are not always in your Installer's control (e.g. funding approval, inspections, etc.) **Since it takes several months for the entire process to be completed, your patience is appreciated as Installer works to bring the savings of solar to you. Any failure to cooperate or provide access may result in delays to activation of the PV System and thus your ability to save on your electric bill.** The general steps for a PV System installation are as follows:

Step 1 – PV System Design: After a visit to your home, Installer (or its subcontractor) will select the equipment for the PV System and create the design for the solar installation in line with programmatic and funding requirements. Installer staff will also work with the local building department to obtain the necessary permits.

Step 2 – Contract Signing: You will meet with your Installer to sign this Agreement and other necessary documents to install the PV System. Generally, PV System designs are considered final once presented to you, unless a condition is identified that prevents the PV System from being installed as presented.

Step 3 – Solar Installation: Installer (or its subcontractor) begins installation of the PV System on your home on a mutually agreed date. You will either need to be present for installation or arrange for the necessary access by Installer staff in order to complete installation. Installer may also need access to the interior of your home for installation of smoke detectors, carbon monoxide detectors, PV System monitoring units, and/or other required devices. Installer staff will not enter your home without you or an authorized adult over the age of 18 present. To facilitate the solar installation process, Installer appreciates if you are able to provide access to a bathroom, water, and electricity for power tools to Installer (or its subcontractor).

Step 4 - Inspections: After the solar installation, a local building inspector will visit your property to inspect the PV System and verify it meets all applicable building codes. Installer (or its subcontractor) will coordinate and be present for the inspection and will let you know if you need to be present to provide access.

Step 5 – Funding Approvals: Installer will submit all the paperwork to any lender(s) financing your installation, the DCSEU, and any applicable rebate or other documentation necessary to obtain approvals and funding.

Step 6 – Utility Provider Approval: Installer will submit all the paperwork to your utility provider (Pepco) to get the PV System approved (i.e. interconnected) so that you can turn on the PV System and start saving on your electric bill. Your utility provider may need to come to your home to switch out your meter and inspect the PV System but may not give you advance notice. No Installer staff will be present for this step and your utility provider’s inspector may refuse to inspect the PV System if dogs or unsafe conditions are present near the main electric service panel or the utility meter. **This step is dependent on factors outside of Installer’s control. Your patience is appreciated.**

Additional Step – Third-Party Inspection: A portion of customer installations are selected for quality control inspection by DCSEU, DC Department of Energy and Environment (DOEE) and/or an independent third-party inspector. The Third-party inspector may contact you directly to schedule the inspection or may coordinate the inspection through Installer. If the inspection is coordinated through Installer, you will receive notice in advance of the inspection. You or an authorized adult over the age of 18 must be home for the third-party inspection unless you explicitly grant authority for the inspector to inspect without an adult present and all of the solar equipment is outside in accessible locations (i.e. not in the basement).

#### **4. OBLIGATIONS OF THE PARTIES**

##### **a. You agree to:**

- (i) only have the PV System repaired pursuant to the Limited Warranty (See Exhibit 1) and reasonably cooperate when repairs are being made;
- (ii) keep trees, bushes, and hedges trimmed so that the PV System receives as much sunlight as it did when Installer installed it;
- (iii) not modify your Home in a way that shades the PV System;
- (iv) be responsible for any conditions at your Home that affect the installation (e.g. blocking access to the electrical service panel or removing a tree that is in the way);
- (v) not remove any markings or identification tags on the PV System;
- (vi) permit Installer, after we give you reasonable notice, to inspect the PV System for proper operation as we reasonably determine necessary;

- (vii) use the PV System primarily for personal, family or household purposes, but not to heat a swimming pool;
- (viii) not do anything, permit or allow to exist any condition or circumstance that would cause the PV System not to operate as intended at the Property;
- (ix) notify Installer promptly if you think the PV System is damaged or appears unsafe; if the PV System is stolen; and prior to changing your power supplier; and
- (x) return any documents sent to you by Installer for signature (like incentive claim forms) within seven (7) days of receiving them.

**b. Installer agrees to:**

- (i) schedule the installation of the PV System at a mutually convenient date and time;
- (ii) provide you, where applicable, with a monitor to accurately measure the amount of power the PV System delivers to you;
- (iii) notify you if the PV System design has to be materially changed so that you can review any such changes;
- (iv) clean up during and after the construction of the PV System;
- (v) insure Installer's actions, covering damages to your property caused by faulty installation, PV System malfunction or manufacturing defects as provided in the Limited Warranty;
- (vi) not be a loss payee (or named insured) on the insurance policy covering your Home;
- (vii) not put a lien on your Home or Property;
- (viii) repair the PV System pursuant to the Limited Warranty and reasonably cooperate with you when scheduling repairs; and
- (ix) provide the Operation & Maintenance Services described in Exhibit 2

**c. Home Renovations or Repairs**

If during the Limited Warranty you want to make any repairs or improvements to the Property that could interfere with the PV System (such as repairing the roof where the PV System is located), you may only remove and replace the PV System once pursuant to the Limited Warranty (See Exhibit 1). If you want to make any such repairs or improvements after the Limited Warranty has expired, any costs to remove and replace the PV System will be at your expense.

**d. No Alterations**

You agree that you will not make any modifications, improvements, revisions or additions to the PV System or take any other action that could void the Limited Warranty on the PV System without Installer's prior written consent. If you make any modifications, improvements, revisions or additions to the PV System, they will become part of the PV System and shall be Installer's property.

**e. Access to the System**

You grant to Installer, its employees, agents, contractors, third party evaluators, DCSEU and DOEE the right to reasonably access all of the Property as necessary for the purposes of (i) installing, constructing, operating, owning, repairing, removing and replacing the PV System or making any additions to the PV System or installing complementary technologies on or about the location of the PV System; (ii) enforcing Installer's rights as to this Agreement and the PV System; (iii)

installing, using, and maintaining electric lines, inverters, and meters necessary to interconnect the PV System to your electric system at the Property and/or to the utility's (Pepco's) electric distribution system; or (iv) taking any other action reasonably necessary in connection with the construction, installation, operation, maintenance, removal or repair of the PV System. Installer shall provide you with reasonable notice of any need to access the Property whenever commercially reasonable.

During the time that Installer has access rights you shall ensure that such access rights are preserved and shall not interfere with or permit any third party to interfere with such rights or access. You agree that the PV System is not a fixture, but Installer has the right to file any UCC-1 financing statement or fixture filing that confirms its interest in the PV System. In the event that Installer files a UCC-1 financing statement or fixture filing, you understand that such filing is not a lien against your Home, but instead is simply to notify anyone who might perform a title search on your address that the PV System is installed on your Home and is the property of Installer. If you sell your home or refinance your mortgage during the Term, your mortgage provider or lender may require the UCC-1 fixture filing be temporarily removed which will result in a fee. Installer will cover this fee for the Term of the Agreement.

## **5. WARRANTY**

YOU UNDERSTAND THAT THE PV SYSTEM IS WARRANTED SOLELY UNDER THE LIMITED WARRANTY ATTACHED AS **EXHIBIT 1**, AND THAT THERE ARE NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR ANY PURPOSE, CONDITION, DESIGN, CAPACITY, SUITABILITY OR PERFORMANCE OF THE PV SYSTEM OR ITS INSTALLATION.

## **6. Indemnification**

To the fullest extent permitted by law, you shall indemnify, defend, protect, save and hold harmless Installer, its employees, officers, directors, agents, successors and assigns from any and all third party claims, actions, costs, expenses (including reasonable attorneys' fees and expenses), damages, liabilities, penalties, losses, obligations, injuries, demands, and liens of any kind or nature arising out of, connected with, relating to or resulting from your negligence or willful misconduct; provided, that nothing herein shall require you to indemnify any party for its own negligence or willful misconduct. The provisions of this paragraph shall survive termination or expiration of this Agreement.

Installer shall indemnify you and hold you harmless from any and all third party claims, actions, costs, expenses (including reasonable attorneys' fees and expenses), damages, liabilities, penalties, losses, obligations, injuries, demands, and liens of any kind or nature arising out of, connected with, relating to or resulting from Installer's negligence or willful misconduct; provided, that nothing herein shall require any party to indemnify you for your own negligence or willful misconduct. The provisions of this paragraph shall survive termination or expiration of this Agreement.

## **7. OWNERSHIP OF THE SYSTEM; TAX CREDITS AND REBATES**

You agree that the PV System is Installer's personal property under the Uniform Commercial Code. You understand and agree that this is a lease and not a sale agreement. Installer owns the PV System for all purposes, including any data generated from the PV System for the Term unless and until you elect to

purchase the PV System. You shall at all times keep the PV System free and clear of all liens, claims, levies, and legal processes not created by Installer.

While the PV System is owned by Installer, you understand and agree that any and all tax credits, incentives, renewable energy credits, green tags, carbon offset credits, utility rebates or any other non-power attributes of the PV System are the property of and for the benefit of Installer, usable at its sole discretion. Installer shall have the exclusive right to enjoy and use all such benefits, whether such benefits exist now or in the future. You agree to refrain from entering into any agreement with your utility that would entitle your utility to claim any such benefits. You agree to reasonably cooperate with Installer so that it may claim any tax credits, renewable energy credits, rebates, carbon offset credits or any other benefits from the PV System. This may include, to the extent allowable by law, entering into net metering agreements, interconnection agreements, and filing renewable energy/carbon offset credit registrations and/or applications for rebates from the federal, state or local government or a local utility and giving and assigning these tax credits, renewable energy/carbon credits, rebates or other benefits to Installer. You will receive the benefits of the PV System through net energy metering, which will reduce your monthly electric bill. With solar, you will still receive monthly electric bills from your utility provider (Pepco). You will be responsible for paying your utility provider (Pepco) for any electricity consumed that exceeds the amount produced by the PV System as well as any required fees.

To summarize: (i) you will receive free solar power from the PV System; and (ii) Installer will retain the rights to all tax credits and renewable energy credits now and in the future unless and until you elect to purchase the PV System; you shall not hold any rights, and irrevocably assign all rights to Installer, for all tax credits and renewable energy credits for the PV System now and in the future, unless you purchase the PV System.

## **8. ASSIGNMENT BY INSTALLER**

Installer may, without your consent, assign, lease, sublease, sell, or transfer the PV System and this Agreement, including the Exhibits (the "Assignment"), along with all rights and obligations hereunder, to any third party (each, an "Assignee"), for any purpose, including without limitation, collection of unpaid amounts, financing of the PV System's installation, or in the event of an acquisition, corporate reorganization, merger or sale of substantially all of Installer's assets to another entity, upon written notice to you.

In such event, Installer will transfer its rights and obligations under this Agreement and, except as provided in this Section 8, be released from all its liabilities and obligations under this Agreement. After any such Assignment, Installer and its assignee will have the following responsibilities:

- a. Installer will continue provide you warranties on the PV System you leased in accordance with the Limited Warranty set forth in **Exhibit 1**;
- b. If Installer assigns this Agreement, Installer will continue to operate and maintain the PV System in accordance with the O&M Services set forth in **Exhibit 2** until you receive written notice otherwise; and
- c. Installer's assignee will, beginning on the effective date of the Assignment, take on all other obligations under this Agreement.

## **9. PARTICIPATION, OUTREACH, COMMUNICATION, AND SHOWCASING YOUR HOME**

The Solar for All Program is an inclusive and participatory process, where everyone involved helps empower a home, a community, and our environment. You are encouraged in helping spread the word about the Solar for All Program, but receiving the benefits of solar power through this program is not contingent on your participation.

To communicate and promote your Installer's mission and work, and/or the DCSEU or DOEE program(s), Installer, DCSEU, or DOEE may use photography, film, interviews, social media and generally document Installer's work during solar installations, which can include activities at your home and, with your consent, images of you and your family members. You authorize Installer, DCSEU and/or DOEE to film, tape, photograph, interview, and otherwise document our activities at your Property. All video, photography, audio, written and other materials produced by any such party in connection with the solar installation and all copyrights in these materials will be the sole property of the party producing the material and may be made available by such party on its website, in publications, or through any other media, at its sole discretion. You understand that you are neither entitled to inspect nor approve versions of any media prior to its use by Installer, DCSEU, or DOEE, nor are you entitled to receive any payment for any such use. You grant the producing party all copyrights and other rights for any media created and distributed under this section including, without limitation, any right to copy, edit, change, or transfer the media.

In addition to documenting its work, Installer, DCSEU, and DOEE may showcase solar installations and may need your cooperation in our efforts to obtain positive publicity for the program(s) or such party's services. If Installer, DCSEU, or DOEE wish to showcase your solar installation, such party will seek your approval and coordinate directly with you if it is necessary. If you are willing to have your solar installation be showcased, you will have the right to approve the date and time that any such event is to be held on your property.

## **10. PROGRAM ASSESSMENT**

Installer collects, analyzes, and disseminates data about our programs on an anonymized or de-identified basis. This helps Installer evaluate the effectiveness of its programs, comply with its external reporting obligations to funders and funding programs, and carry out its internal and external communication efforts. Installer is also required to share your information with the DCSEU, DOEE, and their designees. By signing this Agreement, you consent to the disclosure and use of your information as outlined above.

## **11. OPTIONS AT THE END OF THE TERM**

At the end of the Term, you have three options: (1) Upon your request, Installer will remove the PV System at no cost to you; (2) You may leave the PV System in place as-is; or (3) You have the option to purchase the PV System. If you elect to leave the PV system in place (option 2 above), you will continue to receive the free solar energy generated by the PV System, and Installer will continue to own the PV System. Your obligations under this Agreement will continue, and Installer will continue to provide O&M Services, until either party notifies the other of its intent to terminate this Agreement. If you select to purchase the PV System (option 3 above), you must notify Installer of your intent to purchase. Installer will invoice you for the fair market value of the PV System at the time of purchase (reflecting system age and any depreciation in value since installation) and you must deliver payment to Installer within thirty (30) days of receiving such invoice. Fair market value will be mutually agreed upon by the parties; provided, that if the parties

are unable to reach an agreement as to the fair market value of the PV System, then the fair market value will be determined by a professional appraiser with experience in appraisal of assets similar to the PV System. The parties will divide equally the cost of any such appraisal. Once you elect to purchase the PV System, Installer will no longer provide you with any O&M services unless you enter into a separate agreement with Installer for Installer to perform these services at your expense. If applicable, Installer will assign to you any equipment warranties still in effect for the PV System at the time of purchase.

## **12. DOEE COVENANT.**

If you purchase the PV System from the Installer, the homeowner (You) will be required to sign DOEE's covenant that requires the homeowner to keep the PV system on roof for twenty (20) years after the Interconnection Date.

## **13. SELLING YOUR HOME.**

If you sell your Home during the Term of this Agreement, then the person buying your Home must sign a transfer agreement assuming all of your rights and obligations under this Agreement. **You agree to provide Installer at least twenty (20) days but not more than three (3) months' prior written notice** if you want someone to assume your rights and obligations under this Agreement. In connection with this assumption, you, your approved buyer, and Installer shall execute a written transfer of this Agreement. You will continue to be responsible for any default under this Agreement (whether by you or by your buyer) until both parties (buyer and seller) have signed the transfer agreement. You will be released from your obligations under this Agreement once Installer has a signed transfer agreement with the person buying your Home.

If you sell your Home and cannot comply with this Section 13, you will be in default under this Agreement. This Section 13 includes a Home sale by your estate or heirs.

This Section 13 is free of any restrictions that would prevent you from freely transferring the Property. In the event of a foreclosure on the Property, your lender has the right (but not the obligation) to do ONE of the following:

- a. terminate this Agreement and require Installer to remove the PV System; or
- b. require transfer of the Agreement to a subsequent purchaser of the Property. In the event the lender requires transfer of the Agreement to a subsequent purchaser of the Property, then you will not be entitled to the free electricity produced by the PV System, but any subsequent purchaser of the Property will be entitled to the electricity for the remaining Term of the Agreement.

Installer will not prohibit the sale, conveyance or refinancing of the Property. Installer may choose, at their own expense, to file in the real estate records a UCC-1 financing statement ("Fixture Filing") that preserves their rights in the PV System. The Fixture Filing is intended only to give notice of its rights relating to the PV System and is not a lien or encumbrance against the Property. Installer shall explain the Fixture Filing to any subsequent purchasers of the Property and any related lenders as requested. Installer shall also accommodate reasonable requests from lenders or title companies to facilitate a purchase, financing or refinancing of the Property.

EXCEPT AS SET FORTH IN THIS SECTION, YOU MAY NOT SUBLEASE, ASSIGN, SELL, PLEDGE OR IN ANY OTHER WAY TRANSFER YOUR INTEREST IN THE PV SYSTEM OR THIS AGREEMENT.

#### **14. LOSS OR DAMAGE**

Except as expressly provided in this Agreement, no loss, damage, theft or destruction will excuse you from your obligations under this Agreement. If there is loss, damage, theft, destruction or a similar occurrence affecting the PV System, and you are not in default of this Agreement, you shall cooperate with Installer to have the PV System repaired pursuant to Exhibits 1 and 2.

#### **15. LIMITATION OF LIABILITY**

INSTALLER'S LIABILITY TO YOU UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY. YOU AGREE THAT IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR INDIRECT DAMAGES.

#### **16. DEFAULT**

You will be in default under this Agreement if any one of the following occurs:

- a. you fail to perform any material obligation that you have undertaken in this Agreement (such as alter or interfere with the PV System) and such failure continues for a period of fourteen (14) days after written notice;
- b. you have provided any false or misleading financial or other information to obtain this Agreement;
- c. you assign, transfer, encumber, sublet or sell this Agreement or any part of the PV System without Installer's prior written consent; or
- d. you make an assignment for the benefit of creditors, admit in writing your insolvency, file or there is filed against you a voluntary petition in bankruptcy, are adjudicated bankrupt or insolvent or undertake or experience any substantially similar activity.

#### **17. REMEDIES IN CASE OF DEFAULT**

If you are in default of this Agreement, Installer may take any one or more of the following actions. If the law requires Installer to do so, Installer will give you notice and wait any period of time required before taking any of these actions. Installer may:

- a. terminate this Agreement and your rights to possess and use the PV System;
- b. suspend its performance under this Agreement;
- c. take any reasonable action to correct your default or to prevent further loss to Installer;
- d. require you to return the PV System or make it available to Installer in a reasonable manner; or
- e. turn off or take back the PV System by legal process or self-help, but Installer may not disturb the peace or violate the law.

By choosing any one or more of these remedies, Installer does not give up its right to use another remedy. By deciding not to use any remedy should you be in default of this Agreement, Installer does not give up its right to use that remedy in case of a subsequent default.

**18. INSTALLER DEFAULT; YOUR REMEDIES.**

In addition to any other remedies you have under this Agreement, if Installer (i) makes a general assignment for the benefit of creditors, files a petition in bankruptcy, appoints a trustee or receiver, or has all or substantially all of its assets subject to attachment, execution or other judicial seizure, or (ii) fails to perform an obligation under the Agreement and such failure continues beyond a reasonable period but not to exceed sixty (60) days after Installer receives notice of such failure (provided, in each case, this Agreement is otherwise in full force and effect prior to such event), you will have the option to: (i) purchase the PV System as set forth in Section 11 subject to you agreeing to sign DOEE's covenant to keep the PV System on your roof for twenty (20) years from the Interconnection Date, if applicable; or (ii) seek damages for any losses including breach of Installer's Limited Warranty as set forth in Exhibit 1 or failure to perform O&M Services as set forth in Exhibit 2, for the remaining Term of the Agreement.

**19. DISPUTE RESOLUTION**

If there is any claim or controversy regarding the rights and obligations between you and Installer arising hereunder, Installer and you will first meet and confer informally and in a good faith effort to settle and resolve differences. Prior to commencing any action or proceeding arising under or relating to this Agreement, Installer and you will participate in a mediation of the matters that the parties have been unable to resolve. Any controversy or claim arising out of or relating to this Agreement not settled by mediation will be settled by binding arbitration, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The judgment upon the award rendered by the arbitrator(s) may be entered in any Court having jurisdiction thereof. Any mediation or arbitration between the parties shall occur in the District of Columbia, at a location mutually agreeable to the parties. The parties shall split equally the costs of mediation or arbitration, as applicable, except that each party shall be responsible for its own attorneys' fees; provided, however, that if an arbitrator finds that a claim was made or prosecuted in bad faith by one party, then such party shall be responsible for all costs and for the other party's reasonably incurred attorneys' fees. You and Installer both understand and agree that in signing this Agreement, both are giving up the right to a civil trial in a court of law with respect to any dispute between you and Installer arising under this Agreement.

**20. APPLICABLE LAW**

This Agreement is governed by District of Columbia law. Both parties consent to the exclusive jurisdiction of the state and federal courts of the District of Columbia.

**21. WAIVER**

Any delay or failure of a party to enforce any of the provisions of this Agreement, including but not limited to any remedies listed in this Agreement, or to require performance by the other party of any of the provisions of this Agreement, shall not be construed to (i) be a waiver of such provisions or a party's right to enforce that provision; or (ii) affect the validity of this Agreement.

**22. NOTICES & CONTACT INFORMATION**

All notices under this Agreement shall be in writing and shall be by electronic mail (e-mail), personal delivery, overnight courier, or certified or registered mail at each party's address and contact info on the cover page of this Agreement.

**23. ENTIRE AGREEMENT; CHANGES**

This Agreement contains the parties' entire agreement regarding the installation, performance, ownership, and maintenance of the PV System. There are no other agreements, either written or oral. Any change to this Agreement must be in writing and signed by both parties. If any portion of this Agreement is determined to be unenforceable, the remaining provisions shall be enforced in accordance with their terms or shall be interpreted or re-written so as to make them enforceable.

**24. HOMEOWNER'S RIGHT TO CANCEL AGREEMENT. UNDER DISTRICT OF COLUMBIA LAW, YOU HAVE THE ABSOLUTE RIGHT TO CANCEL THIS AGREEMENT WITHOUT PENALTY ANYTIME WITHIN THREE (3) BUSINESS DAYS AFTER SIGNING THIS AGREEMENT.**

Installer and Client have signed this Agreement as of the dates written below, and the date of this Agreement (including for purposes of cancellation as described in Section 24) shall be the later of such dates.

**INSTALLER:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**HOMEOWNER:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**HOMEOWNER INSTALLATION, OPERATION & MAINTENANCE AGREEMENT**

**EXHIBIT 1**

**LIMITED WARRANTY**

**1. INTRODUCTION**

This Limited Warranty is Installer's agreement to provide you warranties on the PV System installed on your Property. This Limited Warranty begins when Installer starts installing the PV System at your Home.

**2. LIMITED WARRANTY**

For a period of twenty (20) years from the date of completion and interconnection of the PV System installation (the "Warranty Period"), at no cost to you, Installer will repair and service: (1) the PV System, and (2) any damage to the Property directly caused by the installation of the PV System. This Limited Warranty is in addition to the O&M Services as described in Exhibit 2.

During the Warranty Period, the PV System may be serviced either by Installer or a contractor hired by Installer. This Limited Warranty does not cover issues unrelated to the PV System or any conditions at the Property that arose or developed prior to the installation of the PV System. Installer will additionally be responsible for overseeing the service, production guarantees, and monitoring during the Warranty Period.

**3. EXCLUSIONS AND DISCLAIMER**

- a. This Limited Warranty does not apply to any lost power production or any repair, replacement or correction required due to the following:
  - (i) someone other than Installer or its approved service providers installed, removed, re-installed or repaired the PV System;
  - (ii) destruction or damage to the PV System or its ability to safely produce power not caused by Installer or its approved service providers while servicing the PV System (e.g. if a tree falls on the PV System Installer will replace the PV System under this Warranty, but will not repay you for power it did not produce);
  - (iii) your failure to perform, or breach of, your obligations under the Agreement (e.g. you modify or alter the PV System);
  - (iv) your breach of this Limited Warranty, including your being unavailable to provide access or assistance to Installer in diagnosing or repairing a problem;
  - (v) any Force Majeure Event (as defined below);
  - (vi) shading from foliage that is new growth or is not kept trimmed to its appearance on the date the PV System was installed;
  - (vii) any system failure or lost production not caused by a PV System defect (e.g. the PV System is not producing power because it has been removed to make roof repairs); and
  - (viii) theft of the PV System (e.g. if the PV System is stolen, Installer will replace the PV System under this Warranty, but will not repay you for the power it did not produce).

You acknowledge that installation of the PV System may void any existing roof warranty. Installer will only be responsible for repairs or damage to your roof directly related to installation of the PV System, while you are within the Warranty Period.

#### **b. Modifications and Access to the PV System**

The PV System will remain intact for the duration of the Warranty Period and you agree not to tamper or make any modifications to the PV System or its components that could alter the PV System's production. Only Installer-approved parties may repair or modify the PV System. You are responsible for notifying Installer of any problems and repairs needed and will have to provide access to inspect, clean, test or repair the PV System. You also agree to keep the PV System free of shade to ensure maximum production of energy.

#### **c. Moving the PV System**

Because the PV System will be partially funded by the DCSEU Solar for All Program, the PV System cannot be removed or relocated prior to the end of the Warranty Period. Therefore, **during the Warranty Period, you cannot move the PV System except for removal and re-installation as may be required for roof repairs.**

#### **d. De-installation and Re-installation of the PV System**

Installer personnel have to the best of their abilities, assessed your roofing material and roof condition to confirm it has 10 years or more of life remaining. As Installer wants to ensure that the installed PV System saves you money for the long-term and to provide an additional assurance, **Installer will de-install and re-install the PV System at no-cost to you at least once during the Warranty Period if you need to repair or replace the portions of your roof impacted by the System.** Installer will not cover any costs relating to the roof repair or replacement.

In order to use this benefit, **you must notify Installer *in writing* at least 45 days prior to the need for re-roofing or roof repair.** The timing for de-installing and reinstalling the PV System will depend on availability of Installer personnel and any necessary coordination with your roofer. **Any warranty will be voided if the PV System is not de-installed and/or re-installed by Installer or its authorized party.** Damage to any solar equipment or components arising from work carried out by parties other than Installer or its authorized partners is your responsibility. Installer is not obligated to repair, de-install, or re-install the PV System if damaged by a non-authorized party, nevertheless, you are encouraged to contact Installer for assistance in ensuring a fully functional PV System. Any costs associated with repairs or equipment replacement to the PV System resulting from an unauthorized party's work will be at your cost.

After the Warranty Period, you are responsible for any costs related to de-installing and re-installing the PV System over the lifetime of the PV System.

#### **e. System repair or removal**

You agree that if (i) the PV System needs any repairs that are not the responsibility of Installer under this Limited Warranty or the O&M Services described in Exhibit 2, or (ii) the PV System needs to be de-installed

and re-installed to facilitate remodeling of your Home, you will have Installer, at your expense, perform such repairs or removal and reinstallation on a time and materials basis.

If you want to return the PV System to Installer after expiration of the initial Term, then Installer will remove the PV System at no cost to you. You agree to reasonably cooperate with Installer in removing the PV System, including providing necessary space, access, and storage, and Installer will reasonably cooperate with you to schedule removal in a time and manner that minimizes inconvenience to you.

THE LIMITED WARRANTIES DESCRIBED IN THIS EXHIBIT ARE THE ONLY EXPRESS WARRANTIES MADE BY INSTALLER WITH RESPECT TO THE PV SYSTEM. INSTALLER HEREBY DISCLAIMS, AND ANY BENEFICIARY OF THIS LIMITED WARRANTY HEREBY WAIVES, ANY WARRANTY WITH RESPECT TO ANY COST SAVINGS FROM, BUT NOT PERFORMANCE OF, USING THE PV SYSTEM. SOME STATES DO NOT ALLOW SUCH LIMITATIONS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

#### **4. INSTALLER'S STANDARDS**

For the purpose of this Limited Warranty, the standards for Installer's performance will be (i) normal professional standards of performance within the solar photovoltaic power generation industry in the relevant market; and (ii) Prudent Electrical Practices. "Prudent Electrical Practices" means those practices, as changed from time to time, that are engaged in or approved by a significant portion of the solar power electrical generation industry operating in the United States to operate electric equipment lawfully and with reasonable safety, dependability, efficiency, and economy.

#### **5. FORCE MAJEURE**

If Installer is unable to perform all or some of its obligations under this Limited Warranty because of a Force Majeure Event, Installer will be excused from whatever performance is affected by the Force Majeure Event, provided that:

- a. Installer, as soon as is reasonably practical, gives you notice describing the Force Majeure Event;
- b. Installer's suspension of its obligations is of no greater scope and of no longer duration than is required by the Force Majeure Event (i.e. when a Force Majeure Event is over, Installer will make repairs); and
- c. No Installer obligation that arose before the Force Majeure Event that could and should have been fully performed before such Force Majeure Event is excused as a result of such Force Majeure Event.

"Force Majeure Event" means any event, condition or circumstance beyond the control of and not caused by Installer's fault or negligence. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of power due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; hurricane; flood; lightning; wind; drought; epidemic; quarantine or public health restrictions; the binding order of any governmental authority (provided that such order has been resisted in good faith by all reasonable legal means); unavailability of power from the utility grid, equipment, supplies or products (but not to the

extent that any such availability of any of the foregoing results from Installer's failure to have exercised reasonable diligence); power or voltage surge caused by someone other than Installer, including a grid supply voltage outside of the standard range specified by your utility (PEPCO); and failure of equipment not utilized by Installer or under its control.

**6. LIMITATIONS ON LIABILITY**

**a. No Consequential Damages**

YOU MAY ONLY RECOVER DIRECT DAMAGES UNDER THIS LIMITED WARRANTY, AND IN NO EVENT SHALL INSTALLER OR ITS AGENTS OR SUBCONTRACTORS BE LIABLE TO YOU OR YOUR ASSIGNS FOR SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE.

**b. Limitation of Duration of Implied Warranties**

ANY IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY ARISING UNDER STATE LAW, SHALL IN NO EVENT EXTEND PAST THE EXPIRATION OF ANY WARRANTY PERIOD IN THIS LIMITED WARRANTY.

**7. NOTICES**

**ALL NOTICES UNDER THIS LIMITED WARRANTY SHALL BE MADE IN THE SAME MANNER AS SET FORTH IN THIS AGREEMENT (THE LEASE) TO THE ADDRESSES LISTED BELOW:**

**TO INSTALLER:** INSERT

**TO YOU:** At the address in this Agreement or any subsequent address you give us.

**8. ASSIGNMENT AND TRANSFER OF THIS LIMITED WARRANTY**

This Limited Warranty protects only the person who leases the PV System pursuant to this Agreement. Your rights and obligations under this Limited Warranty will be automatically transferred to any person who purchases the PV System from you or to whom you transfer this Agreement upon execution of a written transfer of the Agreement as set forth in Section 13 of the Agreement. This Limited Warranty contains the parties' entire agreement regarding the limited warranty of the PV System.

**HOMEOWNER INSTALLATION, OPERATION & MAINTENANCE AGREEMENT**  
**EXHIBIT 2**

**OPERATIONS AND MAINTENANCE (O&M) SERVICES**

The Operations and Maintenance (O&M) Services that Installer agrees to provide to you on the PV System will begin immediately after the installation of your PV System is complete and the system has been interconnected, and will continue for the duration of the Term. These O&M Services include the following:

**1. Monitoring System production:**

- a. Production Monitor. During installation or at any time thereafter during the Term, you agree to allow Installer to install and maintain a production monitoring system that will allow Installer, the DCSEU, DOEE, and their staff and authorized designees remote access through a wireless connection to monitor and analyze the historic and real-time performance of your PV System (the "Production Monitor"). The Production Monitor will inform Installer, the DCSEU and DOEE staff when the system is off-line and will collect data about your PV System production ("Performance Data") to help ensure the PV System's is performing correctly.
- b. Access to Monitors. You acknowledge and agree that the Production Monitor will be part of the PV System, and that you must provide Installer with access to the Home in order to install, operate, maintain, repair, and replace the Production Monitor.
- c. Monitor Damage or Inaccuracy. Installer uses the Production Monitor to monitor and record your electricity production, and promptly respond to any production issues. To the extent the Production Monitor has any inaccuracies during any given period as a result of your actions or the actions of any other person unrelated to Installer, You will be responsible for any damage to the Production Monitor or Consumption Monitor that is caused by you or any other person unrelated to Installer.
- d. Data Usage and Disclosure. Installer may combine the Usage Data and Performance Data with each other and with other data, including, without limitation, system size, system performance, and address, (collectively, "Data"). Installer will never sell any personally identifiable Data to a third party without your prior written consent.

**2. Manufacturer's Warranties:** maintaining all applicable manufacturer's warranties;

**3. Insurance:** maintaining all insurance policies in accordance with this Agreement;

**4. Roof Warranty:** providing a five (5) year roof penetration warranty for any leaks or roof malfunction caused by the installation of the PV System;

**5. Support:** providing customer support beyond the scope of the Limited Warranty;

**6. Production Guarantee:** Providing a performance/production guarantee: Installer guarantees that the PV System will generate ninety percent (90%) of the weather-adjusted expected output during the Term of this Agreement (the Lease), as well as provide a minimum of 50% reduction in

the District's average residential electric bills for 2016 (which equates to 4,200kWh per year). In the event either of the conditions above is not being met at any time, Installer will perform annual or remedial maintenance (as applicable) on the PV System in accordance with applicable law and the warranties provided by the manufacturers of the components of the PV System, which shall include, but not necessarily be limited to:

- a. Performing a visual inspection of the solar PV modules, mounting system, inverters, wiring, conduits, and data acquisition system to ensure none of the components of the System has been damaged at least annually;
- b. Repairing or replacing any damaged or non-functioning solar PV modules.
- c. Cleaning all of the solar PV modules;
- d. Repairing or replacing any damaged mounting hardware, inverters, wiring, conduits or components of the data acquisition system;
- e. Ensuring all electrical connections are tight and the racking system is firmly attached to the roof; and
- f. Making sure any roof penetrations are properly sealed with waterproof sealant.

7. **Overproduction:** If, over the course of the Term, the PV System produces more energy than the production guarantee above, then the extra energy will be yours at no additional cost.