

GENERATOR INTERCONNECTION AGREEMENT

by and between

City of Crete, Nebraska (Utility)

and

SE Municipal Solar, LLC (Customer)

TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINITIONS.....	1
ARTICLE 2 EFFECTIVE DATE, TERM AND TERMINATION	4
2.1 Effective Date	4
2.2 Term of Agreement	4
2.3 Termination Procedures	4
2.4 Termination Costs	4
2.5 Disconnection	4
2.6 Survival	5
ARTICLE 3 SCOPE OF SERVICE	5
3.1 Scope of Agreement	5
3.2 Provision of Service	5
3.3 Performance Standards	5
ARTICLE 4 TESTING AND INSPECTION	5
4.1 Pre-Commercial Operations Date Testing and Modifications	5
4.2 Post-Commercial Operations Date Testing and Modifications	5
4.3 Right to Observe Testing	6
ARTICLE 5 METERING	6
5.1 General	6
5.2 Use of Metering Data.	6
5.3 Errors or Malfunction	6
5.4 No Annexation	6
ARTICLE 6 OPERATIONS AND MAINTENANCE	6
6.1 General	6
6.2 Customer Obligations	7
6.3 Utility Obligations	7
6.4 Synchronization	7
6.5 Outages and Interruptions.	7
6.6 No Use of Interconnection Facilities by Third Parties	8
6.7 Access Rights	8
6.8 Coordination	8
ARTICLE 7 EMERGENCIES.....	8
7.1 Notice	8

TABLE OF CONTENTS
(continued)

	Page
7.2 Customer Authority	9
7.3 Utility Authority	9
7.4 Limited Liability	9
ARTICLE 8 DEFAULT	9
8.1 General	9
8.2 Effect on Default	9
8.3 Right to Terminate	9
ARTICLE 9 INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE	10
9.1 Indemnity	10
9.2 Indemnity Procedures	10
9.3 Consequential Damages	10
9.4 Insurance	11
ARTICLE 10 ASSIGNMENT	12
10.1 Permitted Transactions	12
ARTICLE 11 INFORMATION ACCESS AND REPORTING	12
11.1 Information Access	12
11.2 Reporting of Non-Force Majeure Events	13
ARTICLE 12 REPRESENTATIONS, WARRANTIES AND COVENANTS	13
12.1 General	13
ARTICLE 13 MISCELLANEOUS	13
13.1 Binding Effect	13
13.2 Governing Law	14
13.3 Notices	14
13.4 Conflicts	14
13.5 Disputes	14
13.6 Rules of Interpretation	14
13.7 Entire Agreement	15
13.8 No Third-Party Beneficiaries	15
13.9 Subcontractors	15
13.10 Severability	15
13.11 Waiver	15
13.12 Multiple Counterparts	15

TABLE OF CONTENTS
(continued)

	Page
13.13 Amendment	15
13.14 Modification by the Parties	15
13.15 No Partnership	15

GENERATOR INTERCONNECTION AGREEMENT

THIS GENERATOR INTERCONNECTION AGREEMENT ("Agreement") is entered into by and among SE MUNICIPAL SOLAR, LLC, a Nebraska limited liability company ("**Customer**") and City of Crete, Nebraska ("**Utility**"), each individually a "**Party**" and collectively the "**Parties**". This Agreement is effective as of the Effective Date as defined in that certain Solar Power Purchase Agreement entered into by the Parties on the ____ day of _____, 2022.

RECITALS

WHEREAS, Utility owns, controls and operates electrical facilities and is engaged in the sale of electric power and energy; and

WHEREAS, Customer intends to own and operate a generating facility and desires to interconnect it with Utility's electrical system; and

WHEREAS, Customer and Utility intend to enter into a separate Power Purchase Agreement ("**PPA**") governing the purchase and sale of the electrical output of the Customer generating facility; and

WHEREAS, Customer and Utility enter into this Agreement for the purpose of stating the rights and obligations governing the interconnection of Customer's generating facility with Utility's electrical system.

NOW, THEREFORE, in consideration of and subject to the premises, conditions and mutual covenants contained herein, it is agreed:

ARTICLE 1 DEFINITIONS

- 1.1 **Affiliate** shall mean, as to any Party, any Person (other than a natural person or a Tax Investor) that directly, or indirectly through one or more intermediaries, (i) controls, is controlled by, or is under common control with such Party, or (ii) is the beneficial owner of fifty percent (50%) or more of any class of equity securities of, or other ownership interests in, such Party or of which such Party is directly or indirectly the owner of fifty percent (50%) or more of any class of equity securities or other ownership interests.
- 1.2 **Breach** shall mean the failure of a Party to perform or fulfill any material provision, obligation, or condition of this Agreement.
- 1.3 **Breaching Party** shall mean a Party that is in Breach of this Agreement.
- 1.4 **Business Day** shall mean a day on which the Federal Reserve Member Banks in Nebraska are open for business; and a Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time in Omaha, Nebraska.
- 1.5 **Commercial Operations** shall mean the status of the Generating Facility that has commenced generating electricity for sale, excluding electricity generated during Trial Operation.
- 1.6 **Commercial Operations Date** shall have the same meaning and be the same date as the "Commercial Operations Date", as defined under the PPA entered into between the

City of Crete, Nebraska and Customer, such term and related provisions of the PPA being incorporated herein by this reference.

- 1.7 **Customer Interconnection Facilities** shall mean all facilities and equipment, as identified in Appendix A of this Agreement that are located between the Generating Facility and the Point of Interconnection, including any modification, addition or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Generating Facility to the Utility Electrical System.
- 1.8 **Day** shall mean a calendar day.
- 1.9 **Default** shall mean the failure of a Breaching Party to cure its Breach in accordance with this Agreement.
- 1.10 **Emergency Condition** shall mean a condition or situation: (i) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (ii) that, in the case of Utility, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Utility Electrical System or the transmission systems of others to which the Utility Electrical System is directly connected; or (iii) that, in the case of Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or the Customer Interconnection Facilities.
- 1.11 **Force Majeure** shall mean any cause or causes not reasonably within the control and without the fault or negligence of the affected Party which wholly or partly prevents the performance of any of its obligations under this Agreement, including, without limitation by enumeration, acts of God, acts of the public enemy, acts of terrorism or threats thereof (or actions to prevent the same), blockades, strikes or differences with workmen, civil disturbances, fires, explosions, storms, floods, landslides, washouts, labor and material shortages, boycotts, breakdowns of or damage to equipment or facilities and actions to prevent the same, interruptions to supply or delays in transportation, embargoes, inability to obtain or renew a necessary license, permit or approval, acts of military authorities, acts of local, state or federal agencies or regulatory bodies, court actions, bankruptcy court actions, arrests and restraints. A Force Majeure event does not include acts of gross negligence or intentional wrongdoing by the Party claiming Force Majeure.
- 1.12 **Generating Facility** shall mean Customer's solar generation facility capable of the production of electricity which is located in Saline County, Nebraska, as further identified in Appendix B, but shall not include the Customer Interconnection Facilities.
- 1.13 **Good Utility Practice** shall mean any of the practices, methods, and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the 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. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region.

- 1.14 Governmental Authority** shall mean any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board or other governmental subdivision, legislature, rulemaking board, tribunal or other governmental authority having jurisdiction over the Parties, their respective facilities or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police or taxing authority or power; provided, however, that such term does not include Customer, Utility, or any Affiliate thereof.
- 1.15 Interconnection Facilities or Interconnection** shall mean all facilities and equipment required to interconnect the Generating Facility with the Utility Electrical System at the Point of Interconnection, including any modification, additions, or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Utility Electrical System. The Interconnection Facilities consist of the Customer Interconnection Facilities and the Utility Interconnection Facilities.
- 1.16 Interconnection, Delivery and Facilities Study** shall mean a study conducted by Utility to determine a list of facilities required to interconnect the Generating Facility with the Utility Electrical System.
- 1.17 Interconnection Service** shall mean the service provided by Utility associated with interconnecting the Generating Facility to the Utility Electrical System and enabling it to receive electric energy and capacity from the Generating Facility at the Point of Interconnection.
- 1.18 Loss** shall mean any and all losses relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs and all other obligations by or to third parties, arising out of or resulting from another Party's performance or non-performance of its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnifying Party.
- 1.19 Metering Equipment** shall mean all Utility-owned metering equipment installed or to be installed at the Generating Facility and Interconnection Facilities pursuant to this Agreement at the metering point, including instrument transformers and kWh-meters.
- 1.20 Notice of Dispute** shall have the meaning given in Section 13.5.
- 1.21 Party or Parties** shall mean Customer and Utility, or any combination thereof.
- 1.22 Point of Interconnection** shall mean the point, as set forth in Appendix A to this Agreement, where the Customer Interconnection Facilities connect to Utility Interconnection Facilities.
- 1.23 Reasonable Efforts** shall mean, with respect to an action required to be made, attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.
- 1.24 Synchronization** shall mean the coordination of events to operate a system in unison.
- 1.25 System Protection Facilities** shall mean the equipment, including necessary protection and communications equipment, required to protect (1) the Utility Electrical System from

faults or other electrical disturbances occurring at the Generating Facility and (2) the Generating Facility from faults or other electrical system disturbances occurring on the Utility Electrical System or on other delivery systems or other generating systems to which the Utility Electrical System is directly connected.

- 1.26 **Trial Operation** shall mean the period during which Customer is engaged in on-site test operations and commissioning of the Generating Facility prior to Commercial Operations.
- 1.27 **Utility Electrical System** shall mean Utility's _____ kV system.
- 1.28 **Utility Interconnection Facilities** shall mean all Interconnection Facilities other than Customer Interconnection Facilities and Utility Interconnection Facilities, as identified in Appendix A.

ARTICLE 2 EFFECTIVE DATE, TERM AND TERMINATION

- 2.1 **Effective Date.** This Agreement shall become effective upon execution by the Parties provided the PPA is also executed by the Parties.
- 2.2 **Term of Agreement.** Subject to Section 8.3, this Agreement shall remain in effect until terminated.
- 2.3 **Termination Procedures.**
- 2.3.1 **Written Notice.** This Agreement may be terminated by (i) any of the Parties providing not less than twelve (12) months advance written notice to all Parties or (ii) by Utility after the Generating Facility permanently ceases Commercial Operations; provided, however, no termination shall be effective unless and until a termination of the PPA between Utility and Customer dated _____, 2022, or any successor power purchase agreement, is legally effective.
- 2.3.2 **Default.** Any Party may terminate this Agreement in accordance with Section 8.3.
- 2.4 **Termination Costs.** If Customer elects to terminate this Agreement pursuant to Section 2.3.2 above, Customer shall pay all costs or expenses of removing any equipment on the site that is no longer required by Utility, as of the date of all Parties' receipt of such notice of termination, for construction of the facilities shown in Appendix A. In the event of such termination by Customer, Utility and Customer shall use Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination.
- 2.5 **Disconnection.** Upon termination of this Agreement, Customer and Utility will take all necessary and appropriate steps to physically disconnect the Generating Facility from the Utility Electrical System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from a non-terminating Party's Default of this Agreement or such non-terminating Party otherwise is responsible for such costs under this Agreement.

- 2.6 **Survival.** This Agreement shall continue in effect for one year after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this Agreement; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect; and to permit each Party to have access to the lands owned or controlled by Customer or Utility pursuant to this Agreement or other applicable agreements to disconnect, remove or salvage their own facilities and equipment.

ARTICLE 3 SCOPE OF SERVICE

- 3.1 **Scope of Agreement.** This Agreement shall govern the interconnection of Customer's generation facility to Utility's transmission or distribution facilities as more particularly described in Appendix A. In the event of any conflict between Appendix A and any other portion of this Agreement, Appendix A shall control.
- 3.2 **Provision of Service.** Commencing on the Commercial Operations Date and continuing so long as this Agreement remains in effect, Utility shall provide Interconnection Service for the Generating Facility at the Point of Interconnection up to 1.6 MW of electrical output, which is the amount of capacity studied in the Interconnection, Delivery and Facilities Study.
- 3.3 **Performance Standards.** Each Party shall perform all of its obligations under this Agreement in accordance with Good Utility Practice, and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this Agreement or its compliance therewith. Utility shall timely cooperate with Customer with respect to all interconnection studies or other documents or agreements necessary for Customer to perform its obligations under this Agreement.

ARTICLE 4 TESTING AND INSPECTION

- 4.1 **Pre-Commercial Operations Date Testing and Modifications.** Prior to the Commercial Operations Date, the Parties shall test Interconnection Facilities and Customer shall also test the Generating Facility to ensure safe and reliable operation. Each Party shall make any modifications to its facilities that are found necessary as a result of such testing. Utility shall bear the cost of all such testing and modifications, except any such testing and modifications that do not result from the interconnection of the Plant.
- 4.2 **Post-Commercial Operations Date Testing and Modifications.** Each Party shall at its own expense perform routine inspection and testing of their facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Generating Facility with the Utility Electrical System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Parties' facilities, at the requesting Party's expense, as may be required in accordance with Good Utility Practice.

- 4.3 **Right to Observe Testing.** Each Party shall notify the other Parties ten (10) working days in advance of its performance of tests of its Interconnection Facilities. The other Parties have the right, at their own expense, to observe such testing.

ARTICLE 5 METERING

- 5.1 **General.** Customer shall install Metering Equipment at the Point of Interconnection as indicated in Appendix A prior to any operation of the Generating Facility and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Generating Facility shall be measured at the Point of Interconnection. Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment that are incurred by Customer. Customer or its subcontractors shall install, calibrate and test revenue quality Metering Equipment in accordance with applicable Utility and ANSI standards. Nothing in this Section 5.1 shall be considered to affect the PPA, and in the event of any such conflict, the PPA shall control.

- 5.2 **Use of Metering Data.** The metered data may be telemetered to one or more locations designated by Customer or Utility at the requesting party's expense. Utility shall maintain as confidential all metered data, and any other data related to the performance of the Generating Facility, and it shall be a breach of this Agreement for Utility to disclose any such data to any third-party without Customer's written consent.

If at any time Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced at Customer's expense, in order to provide accurate metering. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than two percent (2%) from the measurement made by the standard meter used in the test, Customer shall adjust the measurements by correcting all measurements for the period during which Metering Equipment was in error by using Utility's check meters, if installed. If no such check meters are installed or if the period cannot be reasonably ascertained, the adjustment shall be for the period immediately preceding the test of the Metering Equipment equal to one-half (1/2) the time from the date of the last previous test of the Metering Equipment.

- 5.3 **Errors or Malfunction.** Each Party will promptly advise the other Parties if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by the other Parties. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.
- 5.4 **No Annexation.** Except as otherwise provided in writing, any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property.

ARTICLE 6 OPERATIONS AND MAINTENANCE

- 6.1 **General.** Each Party shall comply with any Good Utility Practice and requirements with respect to operations of its respective facilities. Each Party shall provide to the other

Party all information that may reasonably be required by the other Party to comply with any Good Utility Practice.

- 6.2 Customer Obligations.** Customer shall at its own expense operate, maintain and control the Generating Facility and the Customer Interconnection Facilities in a safe and reliable manner and in accordance with this Agreement.
- 6.3 Utility Obligations.** Utility shall cause the Utility Electrical System to be operated, maintained and controlled in a safe and reliable manner in accordance with Good Utility Practice.
- 6.4 Synchronization.** Consistent with Utility's and Customer's mutually acceptable procedures and applicable standards, Customer is responsible to achieve and continually maintain the proper Synchronization of the Generating Facility to the Utility Electrical System.

Prior to the initial Synchronization of the Generating Facility, each Party shall provide such specifications, drawings and other information pertaining to its Interconnection Facilities to the other Parties to allow the other Parties to review the same for purposes of assuring that each Party's facilities are adequate to meet the requirements for the Interconnection and that the facilities will perform in accordance with the terms and provisions of this Agreement. Additionally, in accordance with Article 4, the Parties shall conduct such tests as they deem necessary for their Interconnection Facilities, and each Party shall have the right to observe such tests conducted by the other Parties, for such assurance of adequacy and performance.

6.5 Outages and Interruptions.

- 6.5.1 Outage Authority and Coordination.** A Party may, in accordance with Good Utility Practice, in coordination with the other Parties, remove from service any of their respective Interconnection Facilities that may impact the other Parties' facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal on a date and time mutually acceptable to the Parties. In all circumstances, the Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Parties of such removal.
- 6.5.2 Outage Restoration.** If an outage on Customer's or Utility's Interconnection Facilities adversely affects the other Parties' operations or facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns or controls the facility that is out of service shall provide the other Parties, to the extent such information is known, information on the nature of the Emergency Condition, an estimated time of restoration and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable explaining the nature of the outage. Customer's facilities shall not cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by any applicable electric industry standard.

- 6.5.3 System Protection Facilities.** Customer shall, in accordance with Good Utility Practice and Appendix A, at its expense, install, operate and maintain System Protection Facilities as a part of the Generating Facility or the Customer Interconnection Facilities. Utility shall install at Customer's expense the System Protection Facilities described in Appendix A.
- 6.6 No Use of Interconnection Facilities by Third Parties.** The Interconnection Facilities shall be constructed for the sole purpose of interconnecting the Generating Facility to the Utility Electrical System and shall be used for no other purpose.
- 6.7 Access Rights.** Upon reasonable notice to and supervision by Customer or Utility of the other Parties, Customer or Utility shall furnish at no cost to the other Parties any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by Customer or Utility, their agents, or any Affiliate, which Customer or Utility, their agents, or any Affiliate may hold and legally be able to furnish and which are necessary to enable any Party to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Generating Facility with the Utility Electrical System; (ii) operate and maintain the Interconnection Facilities and the Utility Electrical System; and (iii) disconnect or remove any Party's facilities and equipment upon termination of this Agreement. In exercising such licenses, rights-of-way and easements, Customer and Utility shall not unreasonably disrupt or interfere with normal operation of any Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by Customer and provided to Utility.
- Upon reasonable notice to and supervision by Utility, Utility shall grant to Customer, at no cost to Customer, access to lands granted under a contract or otherwise owned or controlled by Utility, as necessary to enable Customer to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Generating Facility with the Customer Interconnection Facilities, up to but excluding the Point of Interconnection, (ii) operate and maintain the Customer Interconnection Facilities, and (iii) disconnect or remove Customer's facilities and equipment upon the termination of this Agreement. In exercising such right of access, Customer shall not unreasonably disrupt or interfere with normal operation of Utility's or Utility's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by Utility and provided to Customer.
- 6.8 Coordination.** Utility and Customer shall coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Generating Facility and the Interconnection Facilities.

ARTICLE 7 EMERGENCIES

- 7.1 Notice.** Utility shall notify Customer promptly when it becomes aware of an Emergency Condition that affects the Interconnection Facilities or the Utility Electrical System that may reasonably be expected to affect Customer's operation of the Generating Facility or the Customer Interconnection Facilities. Customer shall notify Utility promptly when it becomes aware of an Emergency Condition that affects the Generating Facility or the Customer Interconnection Facilities that may reasonably be expected to affect the Utility Electrical System or Interconnection Facilities. To the

extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of Customer's and Utility's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken.

- 7.2 Customer Authority.** Consistent with Good Utility Practice and this Agreement, Customer may take actions or inactions with regard to the Generating Facility or the Customer Interconnection Facilities during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Generating Facility or the Customer Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Customer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Utility Electrical System and Utility Interconnection Facilities. Utility shall use Reasonable Efforts to assist Customer in such actions.
- 7.3 Utility Authority.** Utility may take whatever actions or inactions with regard to the Utility Electrical System it deems necessary during an Emergency Condition in order to (i) preserve public health and safety and comply with the law governing this Agreement, (ii) preserve the reliability of the Utility Electrical System or Utility Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service.
- 7.4 Limited Liability.** No Party shall be liable to the other for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

ARTICLE 8 DEFAULT

- 8.1 General.** Upon a Breach, a non-Breaching Party may give written notice of such Breach to a Breaching Party. Except as provided in Section 8.2, a Breaching Party shall have thirty (30) Days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Days, a Breaching Party shall commence such cure within thirty (30) Days after notice and continuously use Reasonable Efforts to completion; and, if cured within such time, the Breach specified in such notice shall cease to exist.
- 8.2 Effect on Default.** No Party shall be considered to be in Default with respect to any obligation hereunder, other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Parties in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall use Reasonable Efforts to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.
- 8.3 Right to Terminate.** If a Breach is not cured as provided in this article, or if a Breach is not capable of being cured within the period provided for herein, a non-Breaching Party shall have the right to declare a Default and terminate this Agreement by written notice

at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from a Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this Agreement.

ARTICLE 9 INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE

- 9.1 Indemnity.** The Parties shall at all times indemnify, defend and hold the other Parties harmless from any and all damages, Losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees and all other obligations by or to third parties, arising out of or resulting from such Party's action or inactions on its obligations under this Agreement, except in cases of gross negligence or intentional wrongdoing by an indemnified Party.
- 9.2 Indemnity Procedures.** Promptly after receipt by an indemnified person of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Section 9.1 may apply, the indemnified person shall notify the indemnifying Party of such fact. Any failure of or delay in such notification not exceeding one (1) year shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

The indemnifying Party shall have the right to assume the defense of the tendered claim, action or proceeding with counsel designated by such indemnifying Party and reasonably satisfactory to the indemnified person. If the defendants in any such action include one or more indemnified persons and the indemnifying Party and if the indemnified person reasonably concludes that there may be legal defenses available to it and/or other indemnified persons which are different from or additional to those available to the indemnifying Party, the indemnified person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an indemnified person or indemnified persons having such differing or additional legal defenses.

The indemnified person shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the indemnifying Party. Notwithstanding the foregoing, the indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the indemnified person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the indemnified person, or there exists a conflict or adversity of interest between the indemnified person and the indemnifying Party, in such event the indemnifying Party shall pay the reasonable expenses of the indemnified person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the indemnified person, which shall not be reasonably withheld, conditioned or delayed.

- 9.3 Consequential Damages.** In no event shall the Parties be liable under any provision of this Agreement for any Losses, damages, costs or expenses for any special, indirect, incidental, consequential or punitive damages, including, but not limited to, loss of profit

or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to any other Party under another agreement will not be considered to be special, indirect, incidental or consequential damages hereunder. All damages shall be net of any insurance proceeds received by the indemnified person.

9.4 Insurance. Each Party shall, at its own expense, maintain in force throughout the period of this Agreement, and until released by the other Party, the following minimum insurance coverages, with insurers authorized to do business in the state of Nebraska:

- 9.4.1** Employers' liability and workers' compensation insurance providing statutory benefits in accordance with the laws and regulations of the state of Nebraska.
- 9.4.2** Commercial general liability insurance, including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of one million dollars (\$1,000,000) per occurrence/one million dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.
- 9.4.3** Comprehensive automobile liability insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of one million dollars (\$1,000,000) per occurrence for bodily injury, including death and property damage.
- 9.4.4** Excess public liability insurance over and above the employers' liability commercial general liability and comprehensive automobile liability insurance coverage, with a minimum combined single limit of two million dollars (\$2,000,000) per occurrence/two million dollars (\$2,000,000) aggregate.
- 9.4.5** The commercial general liability insurance, comprehensive automobile insurance and excess public liability insurance policies shall name the other Party, its respective parent, associated and Affiliate companies and its respective directors, officers, agents, servants and employees ("Other Party Group") as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the Other Party Group and provide thirty (30) Days advance written notice to the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.
- 9.4.6** The commercial general liability insurance, comprehensive automobile liability insurance and excess public liability insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to

each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.

- 9.4.7** The commercial general liability insurance, comprehensive automobile liability insurance and excess public liability insurance policies, if written on a claims first made basis, shall be maintained in full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.
- 9.4.8** Within thirty (30) days of receiving a written request by the other Party, each Party shall provide to the requesting Party certification of all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer.
- 9.4.9** Notwithstanding the foregoing, each Party may self-insure to meet the minimum insurance requirements of Sections 9.4.1 through 9.4.8 to the extent it maintains a self-insurance program. Should a Party elect to self-insure to meet the minimum insurance requirements of Sections 9.4.1 through 9.4.8, that Party shall provide documentation that the self-insurance program meets the minimum insurance requirements of this Agreement.

ARTICLE 10 ASSIGNMENT

- 10.1 Permitted Transactions.** Customer and any assignee, designee, mortgagee or successor of Customer (collectively "**Customer Assignee**") shall have the right, without Utility's prior consent or approval, at any time and from time to time, to assign, designate, pledge or encumber all or any part of its rights and obligations under this Agreement, provided that any such action by Customer shall not release Customer from its obligations under this Agreement, unless Customer and Customer Assignee expressly agree to such a release in writing, provided, however, that an assignment by Customer to an entity that Customer owns or controls shall not require or be subject to Utility's prior consent. Utility and any assignee, designee, mortgagee or successor of Utility (collectively "**Utility Assignee**") shall have the right, with Customer's prior written consent, which Customer shall not unreasonably withhold, at any time and from time to time, to assign all or any part of its rights and obligations under this Agreement, provided that any such action by Utility shall not release Utility from its obligations under this Agreement, unless Utility and Utility Assignee expressly agree to such a release in writing and Customer approves the release.

ARTICLE 11 INFORMATION ACCESS AND REPORTING

- 11.1 Information Access.** Each Party (the "**disclosing Party**") shall make available to the other Parties information that is in the possession of the disclosing Party and is necessary in order for the other Parties to carry out their obligations and responsibilities under this Agreement. The Parties shall not use such information for purposes other than those set forth in this Section 11.1 and to enforce their rights under this Agreement.

- 11.2 Reporting of Non-Force Majeure Events.** Each Party (the "**notifying Party**") shall notify the other Parties when the notifying Party becomes aware of its inability to comply with the provisions of this Agreement for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this article shall not entitle the Parties receiving such notification to allege a cause for anticipatory Breach of this Agreement.

ARTICLE 12 REPRESENTATIONS, WARRANTIES AND COVENANTS

- 12.1 General.** Each Party makes the following representations, warranties and covenants:
- 12.1.1 Good Standing.** Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed or incorporated, as applicable; that it is qualified to do business in the state of Nebraska and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.
- 12.1.2 Authority.** Such Party has the right, power and authority to enter into this Agreement, to become a Party hereto and to perform its obligations hereunder. This Agreement is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).
- 12.1.3 No Conflict.** The execution, delivery and performance of this Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.
- 12.1.4 Consent and Approval.** Such Party has sought or obtained or, in accordance with this Agreement, will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by law.

ARTICLE 13 MISCELLANEOUS

- 13.1 Binding Effect.** This Agreement and the rights and obligations hereof shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

- 13.2 Governing Law.** The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the state of Nebraska, without regard to its conflicts of law principles.
- 13.3 Notices.** Unless otherwise provided in this Agreement, any notice, demand or request required or permitted to be given by any Party to the others and any instrument required or permitted to be tendered or delivered by any Party in writing to the others shall be effective when delivered and may be so given, tendered or delivered by recognized national courier, or by depositing the same with the United States Postal Service, with postage prepaid, for delivery by certified or registered mail, addressed to the applicable Party, or personally delivered to the other Parties, at the address set out in Appendix C, Addresses for Delivery of Notices and Billings.

Parties may change the notice information in this Agreement by giving five (5) Business Days written notice prior to the effective date of the change.

- 13.4 Conflicts.** In the event of a conflict between the body of this Agreement and any attachments, appendices or exhibits hereto, the terms and provisions of the body of this Agreement shall prevail and be deemed the final intent of the Parties.
- 13.5 Disputes.** In the event a Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement or its performance, such Party shall provide the other Parties with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Parties. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) Days of the other Parties' receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures agreed to at that time. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this Agreement.
- 13.6 Rules of Interpretation.** This Agreement, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this Agreement), document, instrument, standard, rule or tariff means such agreement, document, instrument, standard, rule or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) unless expressly stated otherwise, reference to any article, section or appendix means such article of this Agreement, such section of this Agreement or such appendix to this Agreement, as the case may be; (5) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular article or other provision hereof or thereof; (6) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (7) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".

- 13.7 Entire Agreement.** This Agreement, including all appendices and schedules attached hereto, constitutes the entire agreement among the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, among the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this Agreement.
- 13.8 No Third-Party Beneficiaries.** This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.
- 13.9 Subcontractors.** Each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Parties for the performance of such subcontractor.
- 13.10 Severability.** If any provision in this Agreement is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this Agreement.
- 13.11 Waiver.** The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.
- Any waiver at any time by any Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, or duty of this Agreement. Termination or Default of this Agreement for any reason by Customer shall not constitute a waiver of Customer's legal rights to obtain an interconnection from Utility. Any waiver of this Agreement shall, if requested, be provided in writing.
- 13.12 Multiple Counterparts.** This Agreement may be executed in three or more counterparts, each of which is deemed an original but all constitute one and the same instrument.
- 13.13 Amendment.** The Parties may by mutual agreement amend this Agreement by a written instrument duly executed by the Parties.
- 13.14 Modification by the Parties.** The Parties may by mutual agreement amend the appendices to this Agreement by a written instrument duly executed by the Parties. Such amendment shall become effective and a part of this Agreement upon the completion of execution by all of the Parties.
- 13.15 No Partnership.** This Agreement does not create and shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement

or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any other Party.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties have executed this Agreement in triplicate originals, each of which shall constitute and be an original effective Agreement among the Parties.

CUSTOMER

SE MUNICIPAL SOLAR, LLC
a Nebraska limited liability company

By: _____
Eric G. Johnson, President

Date: _____

CITY OF CRETE, NEBRASKA

By: _____
David A. Bauer, Mayor

Date: _____

ATTEST for UTILITY

By: _____

Name: _____

Title: _____

Date: _____

APPENDIX A

Electrical Plan

Final electrical plan to be agreed upon by both parties and inserted at a later date before construction begins.

APPENDIX B

Generating Facility Location and Layout

The Generating Facility will be located in Crete, Nebraska. The Generating Facility will include structures and improvements and appurtenant wind turbine equipment necessary for a complete and operable wind power plant as designed. The Generating Facility may be modified during the design and construction phase and Customer shall notify Utility of any changes to the following Generating Facility description incorporated into the balance of plant construction contract or other contracts for the construction of the Generating Facility.

The Generating Facility will consist of:

1. A solar array with a total rated capacity of 1.6 MW AC (the “**Solar Array**”).
2. An electrical collection system connecting the Solar Array to the Customer Interconnection Facilities. The collection system is made up of underground collector cables and inverters linking the Solar Array in three separate circuits. The circuits are ultimately brought to the Point of Interconnection through circuit breakers, disconnect switches and grounding transformers.
3. Other ancillary or accessory structures or facilities as required.

APPENDIX C
Addresses for Delivery of Notices and Billings

To Customer: SE Municipal Solar, LLC
Attention: Michael Knapp
1209 Harney St. #400
Omaha, NE 68102
michael@sandhillsenergyco.com

Copy to:

Baird Holm LLP
Attention: David Levy
1700 Farnam Street, Suite 1500
Omaha, Nebraska 68102
Email: dlevy@bairdholm.com
Fax: (402) 344-0588

To Utility: City of Crete, Nebraska
Attention: Kyle Manley, City Attorney
243 East 13th Street P.O. Box 86
Crete, NE 68333
kyle.manley@crete.ne.gov

Copy to: