

# Illinois Solar for All Program

## Affordability Agreement

This Illinois Solar for All Program Affordability Agreement (this “Agreement”) is made by and between the Owner, as that term is defined below, and the Approved Vendor named in this Agreement, and is effective as of the date of the last signature below (the “Effective Date”).

In consideration for Owner’s participation in the Illinois Solar for All Program (“ILSFA” or the “Program”) and the Approved Vendor’s facilitation of Owner’s participation, Owner and Approved Vendor hereby agree that as of the Effective Date:

**1. Authorization.** Owner has authorized Approved Vendor, including Approved Vendor’s agents, to build a solar photovoltaic generating system (the “Project”) at the site of the “Property” specified below, and to submit the Project for application into the Low-Income Distributed Generation sub-program of ILSFA seeking a Renewable Energy Credit (“REC”) Agreement by and between Approved Vendor (as seller) and the applicable utility company or the state of Illinois as buyer (the “REC Agreement”), and corresponding incentive payments for the delivery of RECs.

**2. Term.** The “Term” of this Agreement shall commence on the Effective Date and continue through the date that is the fifth (5th) anniversary of the date on which the Project is both electrically complete and has received permission to operate from the local interconnecting utility, except if terminated earlier pursuant to Section 4 or Section 8 below.

**3. Ownership.** The “Owner” named below represents and warrants that it is the legal owner of record of the Property.

**4. Covenant to Maintain as Affordable Housing.** Owner represents that the Property is a single-family or multi-family residential building that meets the affordability requirements for the Program as specified in Section 8.13.2 of the Long-Term Renewable

Resources Procurement Plan (the “Plan”) and Section 4.1 of the ILSFA Vendor Manual. Owner commits that no less than fifty percent (50%) of the rental units in the Property will continue to meet the “affordable housing” definition specified in the Illinois Affordable Housing Act (310 ILCS 65/3) throughout the entire Term. Owner agrees that this commitment is a covenant that runs with the Property (the “Covenant”) and that Approved Vendor will have the right to terminate this Agreement upon Owner’s breach of the Covenant. Notwithstanding anything to the contrary in this Agreement, the parties acknowledge and agree that if this Agreement is terminated due to Owner’s breach of the Covenant, that the damages the Approved Vendor and the Program would sustain as a result would be difficult, if not impossible to ascertain. Accordingly, Owner agrees that in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Approved Vendor, or any Third-Party Beneficiary (as defined in Section 9 below) shall have the right to specific performance and injunctive or other equitable relief of its rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and that all such rights and remedies shall be cumulative. Owner agrees that the remedies at law for any breach or threatened breach, including monetary damages, may be inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived by the Owner. Owner and Approved Vendor each agree to immediately notify the ILSFA Program Administrator and the Illinois Power Agency in writing if either becomes aware that the Property is not in compliance with this or any other Program requirement. With the exception of any mortgagee of the Property existing as of the Effective Date, this Agreement shall be binding on Owner, its heirs, successors, executors, and assigns. Owner is responsible for ensuring this Agreement is assumed by any subsequent owner of the Property for the full Term. Owner will provide written notice to the ILSFA Program Administrator of any change in ownership of the Property within fourteen (14) days of such change. Owner agrees to promptly provide all information and records requested by the ILSFA Program Administrator or the Illinois Power Agency necessary to evidence compliance with Program requirements.

**5. Program Obligations.** Owner and Approved Vendor each acknowledge that, should the Project be approved by the ILSFA Program Administrator, Illinois Power Agency, and Illinois Commerce Commission for REC incentives under the Program, any violation of the obligations in Section 4 of this Agreement could constitute a violation under the REC Agreement and place Approved Vendor’s status under the Program at risk.

**6. Representations.** Owner and Approved Vendor each: (A) represent that to the best of its knowledge and belief after due inquiry, investigation and confirmation, the information set forth in this Agreement is true and correct; and (B) agree that, except as otherwise explicitly provided in Section 4 regarding Owner's breach of the Covenant during the Term, any other failure to comply with its obligations under this Agreement may result in termination from the Program and/or other legal action as determined by the ILSFA Program Administrator and/or the Illinois Power Agency in their sole discretion.

**7. Authority.** Each person signing this Agreement represents that he or she: (A) is duly authorized and has legal capacity to execute and deliver this Agreement; and (B) this Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms by the Illinois Power Agency or the Program Administrator on behalf of the Illinois Power Agency.

**8. Early Termination.** This Agreement shall automatically terminate prior to the end of the Term if:

- (a) The Project's application for REC incentive monies from the Program is declined by either the Illinois Power Agency or Illinois Commerce Commission;
- (b) Energization (as defined in the REC Agreement) of the Project is not completed in accordance with the Plan and the REC Agreement, including any extensions to that deadline granted thereto;
- (c) The Approved Vendor elects not to sign a REC Agreement related to the Project within the signing period specified in that REC Agreement; or
- (d) The Project is removed from a REC Agreement.

**9. Third-Party Beneficiary.** The Illinois Power Agency and the ILSFA Program Administrator (each a "Third-Party Beneficiary") on behalf of the Illinois Power Agency are third-party beneficiaries to this Agreement and are entitled to the rights and benefits hereunder and may enforce the provisions hereof as if they were a party hereto.

**10. Recording of Agreement.** Owner hereby consents to recording of this Agreement by Approved Vendor or any Third-Party Beneficiary with the recorder of deeds of the county in which the Property is located. Failure to record this Agreement shall not affect the validity or enforceability of any provision in this Agreement including, but not limited to, the Covenant herein.

**11. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to conflict of laws provisions.

Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Owner Name (Printed): \_\_\_\_\_

Owner Corporate Name (if applicable): \_\_\_\_\_

Property Address: \_\_\_\_\_

City: \_\_\_\_\_ State: Illinois Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Approved Vendor Name: \_\_\_\_\_

Approved Vendor Representative's Name (printed): \_\_\_\_\_

Representative's Signature: \_\_\_\_\_ Date: \_\_\_\_\_