

## Solar Supply and Installment Agreement

**New Mexico Office:**

Titan Solar Power NM Inc.  
 900 Lamberton Pl. NE  
 Albuquerque, NM 87107

Lic. #393719

**Today's Date:** \_\_\_\_\_

<b>Homeowner ("Client", "Customer" or "You")</b>		
Homeowner Name:	Co-Homeowner Name: <span style="float: right;">(if applicable)</span>	
Phone:	Phone:	
<b>Installation Address ("Property")</b>		
<b>Total Installed System Price ("Contract Price")</b>	<b>Deposit</b>	
\$ _____	\$ _____ (due on Effective Date)	
<b>Description of the System to be Installed ("System")</b>		
System Size: _____ kW	Additional Components   Allowances   Notes   Variances	
Panels: _____		
Inverters: _____		
<b>Signatures</b>		
<b>Titan Solar Power NM Inc.</b>  By: _____ Title: _____ Name: _____ Date: _____	<b>Homeowner</b>  _____ [autofill Homeowner name here]  Date: _____	<b>Co-Homeowner</b>  _____ [autofill Co-Homeowner name here]  Date: _____

*The information below is for Titan Solar Power NM Inc. internal use only, and is not part of the Agreement*

<b>HOA Information</b>	<b>Sales Consultant</b>	
HOA Name: _____	Name: _____	
HOA Mgmt. Co.: _____	Phone: _____	Email: _____
<b>Financing Details</b>		

# Terms and Conditions

## ARTICLE 1 PARTIES

This Supply and Installation Agreement (this "Agreement") is made and entered into as of the date of the last signature on the cover page hereof (the "Effective Date") by and between Titan Solar Power NM Inc. ("Contractor") and you ("Client"). Titan Solar Power NM Inc. and you are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties".

## ARTICLE 2 WORK

2.1 Work. Contractor shall provide you the following services on the terms set forth in this Agreement (the "Work"):

- Install the System and its components as described on the cover page, which includes design, supply and installation of all photovoltaic panels, inverter(s), AC & DC disconnects, wiring, conduit and overcurrent protection, and racking placement;
- Obtain necessary permits;
- Provide all labor, material, equipment, taxes, supervision and delivery to furnish and install the entire System as specified under the terms of this Agreement;
- Conduct related filling and compaction;
- Coordinate building, electrical and utility inspections;
- Start up and test the completed System; and
- Additional works described in the Notes field on the cover page

2.2 Exclusions. Any alteration or deviation from the above specifications, including but not limited to any additional material and/or any labor costs incurred by such alteration or deviation, are not part of the Work, and shall only be executed pursuant to ARTICLE 6 of this Agreement, with the costs solely borne by you. These alteration and deviation include but are not limited to:

- Upgrade of existing main service panels, sub-panels or switchboards, if needed;
- Upgrade, replacement or repair of existing roof, or supporting roof structure;
- Tree removal, fencing, weed abatement, curbing, gravel or landscaping;
- Non-standard ground work (such as on difficult soil conditions);
- Additional grading, rock/boulder removal, blasting, coring, soil testing, compaction for footings, and trenching;
- Structural engineering calculations or analysis of existing structures;
- Habitat studies, additional inspections or fees of any type;
- Additional permitting requirements by local building authorities or jurisdictions, such as zoning, land use, architecture, planning, habitat, environmental, etc.; and
- Additional exclusions described in the Notes field on the cover page.

2.3 Standard of Performance. Contractor shall perform all Work in a good and workmanlike manner, and in accordance with applicable law and the terms of this Agreement.

2.4 Removal of System. If you voluntarily elect to remove your system, or if the system must be removed in the event of your default under this Agreement, a removal fee of \$0.30 per watt will apply.

## **ARTICLE 3 PROPERTY**

3.1 Property. Contractor shall install the System on the Property. Within one hundred twenty (120) days of the Effective Date, you shall make the Property available to Contractor for performance of the Work.

3.2 Ownership, Owner Consent and Right to Install. You represent that all owners of the Property have signed this Agreement and that you have the right to enter into this Agreement and to install the System on the Property.

3.3 Site Inspection. You agree to allow Contractor and construction professionals (including engineer, architect, licensed contractors, or their representatives) hired by Contractor to access the Property to inspect any buildings and roofs prior to the installation of the System to ensure that the Property can accommodate the System.

3.4 Access Rights. You grant to Contractor and the Subcontractors the right to access all of the Property for the purposes of (a) designing, installing, constructing, testing, operating, maintaining, repairing and replacing the System or making any additions to the System or installing complementary technologies on or about the location of the System, and performing Contractors' obligations under this Agreement; (b) installing, testing and maintaining electric lines and inverters and meters, necessary to interconnect the System to your electric system at the Property and/or to the utility's electric distribution system; or (c) taking any other action reasonably necessary in connection with designing, installing, constructing, testing, operating, maintaining, repairing and replacing the System. This access right shall continue for up to ninety (90) days after the later of the termination of this Agreement.

3.4.1 Reasonable Notice. Contractor shall provide you with reasonable notice of its need to access the Property whenever reasonable.

3.4.2 No interference. During the time that Contractor has access rights you shall ensure that its access rights are preserved and shall not interfere with or permit any third party to interfere with such rights or access.

3.5 Removal of Hazardous Materials. You agree to provide a safe and secure work environment at the Property during the term of this Agreement. You shall be responsible for removal and any costs incurred of hazardous materials, including asbestos, PCBs, petroleum, or hazardous waste material uncovered or revealed at the Property. If any hazardous materials are discovered, Contractor may immediately cease all the Work in connection with such hazardous condition(s) in any affected area(s). Contractor shall not be required to resume the Work until you deliver written proof of all required local building authority permits related to: (i) specifying that such condition(s) and all affected area(s) have been rendered safe by the building authorities for the resumption of Work, or (ii) specifying any special conditions under which the Work may resume safely. Any work stoppage due to unavailability of the Property does not relieve your obligation to fulfill this Agreement.

3.6 Tax Implications. Certain tax implications may occur as a result of purchasing this system. Please consult a tax professional for guidance relating to potential changes in property taxes, gross receipts taxes, and/or business personal property taxes.

## **ARTICLE 4 PAYMENT**

4.1 Price. In consideration of performance of the Work and installation of the System, you shall pay to Titan Solar Power NM Inc. the Contract Price, as defined on the cover page. The Contract Price shall be paid in full upon Completed Installation.

4.2 Deposit. Upon the Effective Date, you shall pay to Contractor a deposit in an amount provided on the cover page to Titan Solar Power NM Inc. (the "Deposit"). Contractor agrees to refund the full amount of the Deposit if you cancel the Agreement within three (3) days following the Effective Date. Any cancellation after three (3) days following the Effective Date will cause a forfeiture of the Deposit. If neither Party cancels the Agreement, the Deposit shall be applied to the Contract Price. This Section 4.2 does not apply if the Deposit as provided on the cover page is zero (\$0).

4.3 Past Due Amount. Past due amounts shall accrue interest from the date such amounts were due until the date paid at an interest rate equal to the lesser of 10% per annum and the maximum rate permitted by law.

## **ARTICLE 5 TIME FOR PERFORMANCE; TITLE OF WORK**

5.1 Commencement. Contractor shall commence performance of the Work at the Property (“Commencement”) within sixty (60) business days from the date of receiving all required permits, or the date the Property is ready for installation, whichever comes later. Following Commencement, Contractor shall diligently proceed to achieve Completed Installation.

5.2 Completed Installation. “Completed Installation” means the System is fully installed and is ready for start-up and testing.

5.3 Guaranteed Completion. Except as otherwise provided herein, Contractor shall achieve Completed Installation within one hundred eighty (180) days from Commencement (the “Guaranteed Completion Date”).

5.3.1 Extension. Titan Solar Power NM Inc. retains the right to modify the Guaranteed Completion Date due to Force Majeure Events, Customer-Caused Delay, and other circumstances that are beyond the control of Titan Solar Power NM Inc. including but not limited to:

- Product delivery time constraints by manufacturer(s);
- Availability of your selected equipment
- Completion of your financing;
- Permit process;
- HOA’s approval process.

5.3.2 Title of System. Prior to Completed Installation, Titan Solar Power NM Inc. has good title to all of the System Assets. “System Assets” means all the Work and all materials delivered to the Property, whether, or not incorporated in the System or the Property. Upon your payment of the Contract Price, legal title and ownership of the System shall pass to Client.

## **ARTICLE 6 CHANGED CONDITIONS**

6.1 Right to Cancel.

6.1.1 Site Inspection Result. After site inspection by Titan Solar Power NM Inc. as set forth in Section 3.2, Titan Solar Power NM Inc. may cancel this Agreement and propose a new agreement, based on the site inspection result.

6.1.2 New Conditions. In the event, Titan Solar Power NM Inc. discovers new conditions of the Property which were not discovered or revealed before the Effective Date, or in the event, environmental concerns unexpectedly arise and require involvement and/or further permits from local building authorities, Titan Solar Power NM Inc. shall have the right to cancel this Agreement and propose a new agreement.

6.1.3 Customer’s Right to Cancel. If Titan Solar Power NM Inc. elects to cancel this Agreement and propose a new agreement, Customer shall have the right to accept or reject the new agreement. Until such new agreement is in place, all Work shall cease.

## **ARTICLE 7 LIMITED WARRANTY**

7.1 Free of Material, Construction and Workmanship Defect. Subject to the limitations and other provisions of this Agreement, Titan Solar Power NM Inc. warrants that the Work and the System will be free from defects in material,

construction and workmanship ten (10) years following the Completed Installation (the “Limited Warranty”). Any claim under the Limited Warranty must be made before the expiration of the Limited Warranty.

7.2 Warranty Exclusion. The Limited Warranty excludes products not manufactured by Titan Solar Power NM Inc. You shall be entitled to all warranties, if any, provided by the manufacturers of the components, accessories and equipment that are not manufactured by Titan Solar Power NM Inc., but which Titan Solar Power NM Inc. installs. These items generally include, but are not limited to, solar panels, inverters, and disconnect switches. Titan Solar Power NM Inc. does not expressly warrant these items because it is not involved in the manufacturing process. Occasionally, a component, accessory or item of equipment will be unavailable for reasons beyond Titan Solar Power NM Inc.’s control. If this should occur, Titan Solar Power NM Inc. shall have the right to substitute a reasonable equivalent item. The Limited Warranty excludes any measuring or monitoring equipment or service.

7.3 Other Exclusions. The Limited Warranty does not extend to (a) normal wear and tear; or (b) damage or failure caused by (i) abuse or material neglect of you, unless such action or inaction was taken or not taken, as the case may be, in reliance on written instructions provided by Titan Solar Power NM Inc., (ii) modifications not performed by or through Titan Solar Power NM Inc. or an affiliate of Titan Solar Power NM Inc. or in a manner materially inconsistent with or contrary to the written information or written instructions provided by Titan Solar Power NM Inc. or contained in the vendor manuals provided by Titan Solar Power NM Inc., (iii) the negligent acts or omissions of you or your separate contractors, (iv) defects or deficiencies attributable to Force Majeure Events, (v) failure by you to properly maintain or operate the System, or (vi) defects caused by the failure of the structural integrity of the support system by reason of any earth or fill ground movement.

7.4 Repair and Replacement. If you discover a breach of the Limited Warranty and make a timely claim, then, as your sole and exclusive remedy, Titan Solar Power NM Inc. shall repair or replace the defective Work. Titan Solar Power NM Inc. shall commence and complete such repairs or replacements within a reasonable time after receipt of your notice of warranty claim. If a failure cannot be corrected by Titan Solar Power NM Inc.’s reasonable efforts, the Parties will negotiate an equitable adjustment in the Contract Price.

7.5 Disputes of Breach of Warranty. If Titan Solar Power NM Inc. disputes whether a breach of warranty has occurred, any tests of the System shall be as mutually agreed, and Titan Solar Power NM Inc. shall be notified of and may be present at all tests that may be performed.

7.6 Exclusive Remedy. The Limited Warranty is the exclusive remedy for defects in material and workmanship provided under this Agreement, and is provided in lieu of all other warranties, express or implied. On expiration of the Limited Warranty, all liability of Titan Solar Power NM Inc. for breach of warranty shall terminate. NO IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY.



## TITAN SOLAR POWER WARRANTY

### LIMITED TEN (10) YEAR

**Workmanship Warranty.** We warrant our work for a period of Ten (10) years after installation (the “Warranty Period”), except as provided below with respect to our roof penetration warranty. During the Warranty Period we will, at our expense, repair or replace any Material or Work covered under this Agreement. Our Workmanship Warranty includes but is not limited to the following:

**Roof Penetration Warranty.** We warrant that roof penetrations made by the Solar System and impacting the Home’s roof will be weather- tight for a period of 10 years after installation.

**Mechanical Connections and Assembly Warranty.** We warrant the assembly and Mechanical connections of your Solar System to be free of defects in material and workmanship for period of Ten (10) years after the date of installation.

**Damage Warranty.** We will either repair or reimburse you for damage we cause during installation to the Home, your belongings or your property, as limited by Exceptions and Exclusion below.

#### **Warranty Exceptions and Exclusions**

The Roof Penetration Warranty shall be void and voidable if work is performed by you or your contractors on the roof during the 10 year warranty period. The Roof Penetration Warranty does not cover any (i) leaks that occur in areas of the Home’s roof not impacted by the Solar System, (ii) pre-existing and/or underlying failures of the Home’s roof or (iii) foreign objects acting on the Home’s roof (e.g. hail, golf balls, etc.).

The Workmanship Warranty does not apply to the following: Work performed or materials used by anyone other than us or our Installation Partners; Any materials that were modified, repaired or attempted to be repaired by anyone other than Titan Solar Power or its Installation Partners without Titan Solar Powers prior written approval; Any damages resulting from your breach of the Agreement; Damage resulting from ordinary wear and tear; Damage to the Home due to weather, including but not limited to ice or snow falling off of the Solar System, or natural disasters; Damage due to Force Majeure Events; Damage resulting from mold, fungus and other organic pathogens; Shrinking/cracking of grout and caulking; and Fading of paints and finishes exposed to sunlight.

*You acknowledge that installation of the Solar System may void any roofing warranty of the roof manufacturer or roof installer. We assume no responsibility if our Work voids your roofing warranty. Before installation, you should check with the roofer or builder concerning any impact the Solar System will have on a roof warranty.*

**ARTICLE 8**  
**FORCE MAJEURE EVENTS; CUSTOMER-CAUSED DELAY**

8.1 Force Majeure. For purposes of this Agreement, the term “Force Majeure Event” shall mean any event, condition or circumstance that delays or prevents a Party from timely performing obligations under this Agreement, or from complying with conditions required under this Agreement if such act or event, condition or circumstance, despite the exercise of reasonable efforts, cannot be avoided by, and is beyond the reasonable control of and without the fault or negligence of, the Party relying thereon as justification for such delay, nonperformance, or noncompliance, which includes, to the extent that the foregoing conditions are satisfied, war, sabotage, riots, insurrection, civil unrest or disturbance, military or guerilla action, terrorism, economic sanction or embargo, civil strike, work stoppage, slow-down, or lock-out; inclement weather, earthquake, abnormal weather condition or actions of the elements, hurricane, flood, lightning, wind, drought, volcanic eruption, Acts of God; unavailability of materials acceptable to Titan Solar Power NM Inc., fires, explosions, strikes, concurrent construction at Property affecting solar installation, government prohibitions, action or inaction of government or local utility, or acts or omissions of other persons.

8.2 Customer-Caused Delay. For purposes of this Agreement, “Customer-Caused Delay” means delays caused by your failure to comply with your obligations under this Agreement, and any other delays caused by you, your agents, or separate subcontractors.

8.3 Performance Excuse. On account of any ongoing Force Majeure Event, each Party shall be excused from performance of its obligations under this Agreement, other than payment obligations. Titan Solar Power NM Inc. shall have the right to cancel this Agreement upon the occurrence of any Force Majeure Event or Customer-Caused Delay impacting the performance of the Work.

**ARTICLE 9**  
**DEFAULT; TERMINATION**

9.1 Default by Titan Solar Power NM Inc. Titan Solar Power NM Inc. will be in default under this Agreement if any of the following occurs:

- a) failure to perform its obligations under this Agreement which remains uncured thirty (30) days after receipt of written notice of default; or
- b) Titan Solar Power NM Inc. admits in writing its insolvency, files or there is filed against it a voluntary petition in bankruptcy, is adjudicated bankrupt or insolvent or undertakes or experiences any substantially similar activity.

9.2 Remedies in Case of Default by Titan Solar Power NM Inc. If Titan Solar Power NM Inc. is in default under this Agreement, you may:

- a) terminate this Agreement; or
- b) pursue any other remedy available to you in this Agreement or by law.

9.3 Default by Customer. You will be in default under this Agreement if any one of the following occurs:

- a) you fail to make any payment when it is due and such failure continues for a period of five (5) days;
- b) you fail to perform any material obligation that you have undertaken in this Agreement (which includes doing something you have agreed not to do, like alter the System) and such failure continues for a period of thirty (30) days after written notice;
- c) you have provided any false or misleading financial or other information to obtain this Agreement;
- d) you assign, transfer, encumber, sublet or sell this Agreement or any part of the System without Titan Solar Power NM Inc.’s prior written consent; or

- e) you make an assignment for the benefit of creditors, admit in writing its 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.
- f) Remedies in Case of Default by Customer. If you are in default under this Agreement, Titan Solar Power NM Inc. may take any one or more of the following actions. If the law requires Titan Solar Power NM Inc. to do so, Titan Solar Power NM Inc. will give you notice and wait any period of time required before taking any of these actions. Titan Solar Power NM Inc. may:
- (i) terminate this Agreement;
  - (ii) suspend the performance of this Agreement;
  - (iii) take any reasonable action to correct your default or to prevent our loss; any amount we pay will be added to the amount you owe us and will be immediately due;
  - (iv) require you, at your expense, to return the System or make it available to us in a reasonable manner;
  - (v) proceed, by appropriate court action, to enforce performance of this Agreement and to recover damages for your breach;
  - (vi) disconnect, turn off or take back the System by legal process or self-help, but Titan Solar Power NM Inc. may not disturb the peace or violate the law;
  - (vii) report the non-operational status of the System to your utility informing them that you are no longer net metering;
  - (viii) charge you a reasonable reconnection fee for reconnecting the System to your utility or turning your System back on after we disconnect or turn off the System due to your default;
  - (ix) recover from you (A) all unpaid Contract Price, taxes, and all or any other sums then due and owing, and (B) seek a pre or post judgment lien or similar security interest on or against your home;
  - (x) recover from you all direct and indirect, internal and external expenses incurred in partial completion of the Work, plus 15% profit thereon; or
  - (xi) pursue any other remedy available to Titan Solar Power NM Inc. in this Agreement or by law.

9.3.2 Multiple Remedies. By choosing any one or more of these remedies, Titan Solar Power NM Inc. does not give up its right to use another remedy. By deciding not to use any remedy should this Agreement be in default, Titan Solar Power NM Inc. does not give up our right to use that remedy in case of a subsequent default.

9.3.3 Reimbursement. You agree to repay Titan Solar Power NM Inc. for any reasonable amounts we pay to correct or cover your default. You also agree to reimburse Titan Solar Power NM Inc. for any direct and indirect, internal and external costs and expenses Titan Solar Power NM Inc. incurs, plus 15% profit thereon, relating to the System's return resulting from early termination.

9.4 Non-Default Terminations. If any of the following event arises, either Party may termination this Agreement without further liabilities or obligations on either party: (a) issuance of an order of a court or other public authority having jurisdiction which requires all the Work to be stopped; or (b) Force Majeure Event that lasts more than 365 days. Titan Solar Power NM Inc. may termination this Agreement if there is a failure to obtain all permits and governmental approvals required for performance of the Work.



## **ARTICLE 10 INDEMNITY**

To the fullest extent permitted by law, each Party shall indemnify, defend and hold harmless the other Party from and against any and all loss, damage, expense and liability, including fines, penalties, court costs and reasonable attorneys' fees (collectively, "Liabilities") incurred by such first Party in connection with or arising from any third-party claim for physical or other damage to or physical destruction of property or death of or bodily injury to any person to the extent caused by (a) any breach or violation of or default under this Agreement or any applicable legal requirements by; or (b) any willful misconduct or gross negligent acts or omissions of the second Party or its agents, subcontractors or employees or others under its control, provided, however, that in no event shall a Party be obligated under this section to the extent such Liabilities arise due to the negligence or willful misconduct of the other Party or any third party.

## **ARTICLE 11 LIMITATIONS OF LIABILITY**

11.1 Limitation of Liability. Titan Solar Power NM Inc.'s total liability to you, for any and all causes (including all claims under the warranties described in this Agreement), whether based on contract, tort (including negligence), strict liability or any other cause of action, shall in no event exceed the Contract Price.

11.2 No Consequential Damages. NO PARTY SHALL BE LIABLE FOR SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES OR LOST PROFITS, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OTHER LAW OR OTHERWISE AND WHETHER OR NOT ARISING FROM THE OTHER PARTY'S SOLE, JOINT OR CONCURRENT NEGLIGENCE, STRICT LIABILITY OR OTHER FAULT. THIS LIMITATION WILL NOT BE INTERPRETED TO RESTRICT A PARTY'S INDEMNITY OBLIGATIONS WHERE SUCH OBLIGATIONS EXIST PURSUANT TO THIS AGREEMENT.

## **ARTICLE 12 GENERAL PROVISIONS**

12.1 Governing Law. This Agreement is governed by the laws where the Property is located.

12.2 Notices. All notices given by either Party hereunder must be in writing and delivered by personal delivery, certified mail (return receipt requested), or overnight courier. A notice shall be deemed received upon personal delivery, the promised delivery date after deposit with a reputable overnight courier, or five (5) days after deposit in the mail. Notices to either Party shall be sent to the respective address provided on the cover page or other address as provided in writing.

12.3 Arbitration and Attorney's Fees. All claims, disputes, and other matters in question between the Parties to this Agreement, arising out of or relating to this Agreement, or the breach thereof, shall be submitted to arbitration in Phoenix, Arizona. The rules and procedures of such arbitration will be the Construction Industry Rules of the Judicial Arbitration and Mediation Services ("JAMS") unless the Parties mutually agree in writing otherwise. The decision of the arbitrator(s) shall be final, conclusive and binding upon the Parties hereto, and shall be enforceable in any court of competent jurisdiction. The prevailing party in any arbitration or court proceeding shall be entitled to its reasonable attorneys' fees and all related costs and expenses.

12.4 Survival. Subject to the limitations and other provisions of this Agreement, Exhibit A, Exhibit B, ARTICLE 7, ARTICLE 10, ARTICLE 11, and ARTICLE 12, as well as any other provision that, in order to give proper effect to its intent, shall survive the expiration or earlier termination of this Agreement.

12.5 Assignment. Neither party may assign any of its rights hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the forgoing, Titan Solar Power NM Inc. may, without consent of Customer, assign this Agreement to any affiliate of Titan Solar Power NM Inc. Any purported assignment in violation of this Section 12.4 shall be null and void.

12.6 Right to Subcontract. Titan Solar Power NM Inc. shall have the right to subcontract the performance of the Work and any other duties or obligations under this Agreement to a third party (a “Subcontractor”). In all cases, Titan Solar Power NM Inc. shall be responsible and liable for the acts and omissions of each Subcontractor to the same extent as if such acts or omissions were by Titan Solar Power NM Inc. or its employees, and shall be responsible for all fees and expenses payable to any Subcontractor.

12.7 Waiver. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

12.8 Amendment and Modification. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto.

12.9 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

12.10 Severability. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to affect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

12.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

12.12 Entire Agreement. This Agreement constitutes the entire agreement between the Parties, and the Parties are not bound by any oral expression or representation by any agent of either Party purporting to act for or on behalf of either Party or by any commitment or arrangement not specified in this Agreement. Any plans, specifications, and other data furnished with or in connection with this Agreement are descriptive of the specifications and terms and conditions contained herein, and in case of conflict between the provisions stated in the plans and specifications or other data, and the terms of this Agreement, the terms of this Agreement shall prevail.

12.13 Electronic Execution. Should the Parties elect to execute this Agreement via verified electronic means (for example, Docusign or Adobe Sign), the electronically executed Agreement is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

12.14 New Mexico Mechanical Lien Law. Under the New Mexico Mechanics’ Lien Law, any contractor, subcontractor, laborer, supplier, or other person or entity who helps to improve your property, but is not paid for his or her work or supplies, has a right to place a lien on your home, land, or property where the work was performed and to sue you in court to obtain payment. This means that after a court hearing; your home, land, and property could be sold by a court officer and the proceeds of the sale used to satisfy what you owe. This can happen even if you have paid your contractor in full if the contractor’s subcontractors, laborers, or suppliers remain unpaid. To preserve their rights to file a claim or lien against your property, certain claimants such as subcontractors or material suppliers are each required to provide a document called a “Preliminary Notice.” Contractors and laborers who contract with owners directly do not have to provide such notice since you are aware of their existence as an owner. A preliminary notice is not a lien against your property. Its purpose is to notify you of persons or entities that may have a right to file a lien against your property if they are not paid. In order to perfect their lien rights, a contractor, subcontractor, supplier, or laborer must file a mechanics’ lien with the county recorder that then becomes a recorded lien against your property. Generally, the maximum time allowed for filing a mechanics’ lien against your property is 90 days after substantial completion of your project.

### 3-Day Right of Rescission and Notice of Right to Cancel

The Notice of Cancellation, regarding your right to cancel this contract, is attached hereto and made a part to this contract.

**Notice of Cancellation** \_\_\_\_\_ (enter date of transaction)

You may cancel this transaction, without any penalty or obligation, within three (3) business days from the above date. If you cancel, any property traded in, payments made under the contract or sale, and any negotiable instrument executed by you will be returned within ten (10) business days following receipt by the seller of your cancellation notice. Additionally, any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk. If you do make the goods available to the seller and the seller does not pick them up within twenty (20) days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

Certain aspects of executing the work relating to this contract have fees associated with them. Such items include but are not limited to sight survey, design, permitting etc. The consumer acknowledges that cancelling this contract may result in the consumer being responsible for said fees.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, to:

**Corporate Office:  
Titan Solar Power NM Inc.  
210 Sunway Drive  
Gilbert, AZ 85233**

No later than midnight of \_\_\_\_\_ (date)

I hereby cancel this transaction \_\_\_\_\_ (date)

Buyer's Printed Name: \_\_\_\_\_

Buyer's signature: \_\_\_\_\_

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

### 3-Day Right of Rescission and Notice of Right to Cancel

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If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk. If you do make the goods available to the seller and the seller does not pick them up within twenty (20) days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

Certain aspects of executing the work relating to this contract have fees associated with them. Such items include but are not limited to sight survey, design, permitting etc. The consumer acknowledges that cancelling this contract may result in the consumer being responsible for said fees.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, to:

**Corporate Office:  
Titan Solar Power NM Inc.  
210 Sunway Drive  
Gilbert, AZ 85233**

No later than midnight of \_\_\_\_\_ (date)

I hereby cancel this transaction \_\_\_\_\_ (date)

Buyer's Printed Name: \_\_\_\_\_

Buyer's signature: \_\_\_\_\_

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

**ARTICLE 13**  
**MAINTENANCE AND REPAIRS; EXPANSION**

13.1 Inspection of System. You agree that Titan Solar Power NM Inc. shall have the right, with prior notice and at times reasonably agreed to by you, to inspect the System to determine if you have complied with the conditions set forth in this Exhibit A. In the event that any inspection discloses that you have failed, on or prior to the date of such inspection, to be in compliance with any of your obligations, then for purposes of calculating the Production Year Deficit Payment, if any, the performance of the System during such compliance failure shall be deemed equal to the average performance of the prior Production Years during the same time period.

13.2 Maintenance and Repair. You irrevocably grant to Titan Solar Power NM Inc. the right to repair, replace, and maintain the System and appurtenant equipment, and to conduct on-site measurements, including, but not limited to, reading meters and installing and observing on-site monitoring equipment. You shall cooperate fully with the exercise of such right by Titan Solar Power NM Inc. pursuant to this Section. You shall further cooperate with Titan Solar Power NM Inc.' performance by providing utility information, and/or additional information as reasonably requested by Titan Solar Power NM Inc.

13.3 Expansion and Relocation. In the event an unforeseeable shading condition not caused by Titan Solar Power NM Inc. exists and continues for five (5) days, you agree that Titan Solar Power NM Inc. shall have the right to expand or relocate the System, or otherwise the Guaranteed Annual kWh for that Production Year or any future Production Years shall be reduced based upon such shading condition, and Titan Solar Power NM Inc. will present you with a proposed reduction to the Guaranteed Annual kWh for that Production Year or any future Production Years reflecting such interference.

13.4 Expenses. You agree that if the System needs any repair that is not the responsibility of Titan Solar Power NM Inc. under this Agreement, or if the System needs to be expended or relocated to facilitate remodeling of the Property, you will have Titan Solar Power NM Inc., or another similarly qualified service provider approved by Titan Solar Power NM Inc., perform such repairs and relocation at your expense.

**ARTICLE 14**  
**NO SAVINGS GUARANTEE**

14.1 No Savings Guarantee. Titan Solar Power NM Inc. provides no warranty or guaranty with respect to any cost savings from use of the System. Electric usage and savings are determined by many factors including but not limited to utility rates, amount of power used and loads applied from within and around the property any and all of which can cause a shift in the total amount of power needed to create savings.

14.2 Tax Credits, Rebates, Incentives and Renewable Energy Certificates. Your system may be eligible for state and federal tax credits, rebates, incentives and renewable energy certificates. These programs were not used in determining the Contract Price of your system. See Page 14, Section IV of the Disclosure Statement for more information.

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

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

Co-Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

Titan Solar Power NM Inc.: \_\_\_\_\_ Date: \_\_\_\_\_

\*A subsidiary of PM&M Electric Inc. dba Titan Solar Power

**DISCLOSURES**

**I. Party Information & Description of the System to be Installed**

**Marketer:**

Company Name: \_\_\_\_\_ Solicitation Permit No.: \_\_\_\_\_

Company Address: \_\_\_\_\_ Company Telephone No.: \_\_\_\_\_

**Seller:**

Solar installation company is Titan Solar Power NM Inc., a subsidiary of PM&M Electric Inc. dba Titan Solar Power or its appointed, assigned, or delegated subcontractor. Titan Solar Power NM Inc. (Contractors Lic. # 391681; Bond No. B11925C (\$10,000.00)) can be contacted at 900 Lambertson Pl. NE, Albuquerque, NM 87107. For phone inquiries 1-855-SAY-SOLAR and by email at [Sales@TitanSolarPower.com](mailto:Sales@TitanSolarPower.com).

**Buyer:**

Property Owner Name: \_\_\_\_\_

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

City: \_\_\_\_\_ State: NM Zip Code: \_\_\_\_\_ Home Phone#: \_\_\_\_\_

Cell Phone#: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

**Design Assumption/Description of the System:**

System Size: (watts) \_\_\_\_\_ Azimuth: \_\_\_\_\_ Estimated Year 1 Production: \_\_\_\_\_ kWh

Estimated slope of array(s): \_\_\_\_\_ System Orientation: \_\_\_\_\_

Estimated Annual Energy Production Decrease: \_\_\_\_\_ kWh

Estimated Degradation (Annual)= 0.01% Estimated Degradation (Life of System)= > 0.80%

Inverter Brand/Model/Size: \_\_\_\_\_ Racking Brand: Iron Ridge

Panel Brand/Model/Size: \_\_\_\_\_

Additional Components, Allowances, Notes, Variances: \_\_\_\_\_

Status of Utility Compensation for Excess Energy Generated: \_\_\_\_\_

**II. Purchase Price, Financing and Payments**

Sales Price/Watt: \$ \_\_\_\_\_ Total System Cost: \$ \_\_\_\_\_ Federal Tax Credit, if Available: \_\_\_\_\_ \$ \_\_\_\_\_

State Tax Credit, If Available: \_\_\_\_\_ \$ \_\_\_\_\_

Other Incentive(s) or Rebate(s), If Available: \_\_\_\_\_ \$ \_\_\_\_\_

Payment Method: Cash: \_\_\_\_\_ GreenSky: \_\_\_\_\_ Service Finance: \_\_\_\_\_ Sunlight: \_\_\_\_\_ Mosaic: \_\_\_\_\_ Dividend: \_\_\_\_\_

- A. You are entering into an agreement to purchase a distributed energy generation system. You will own (not lease) the system installed on your property.
- B. **Payment schedule for cash purchases:** \$2,000.00 at contract signing, \$1,000.00 at PTO (Permission to Operate); the balance divided equally at Permit and Completed Installation.
- C. **Payment schedule for financed systems:** The payment scheduled for financed systems are subject to the terms of the lender. Titan Solar Power NM Inc. can assist you in arranging financing for your system. If your system is financed, carefully read any agreements and/or disclosure forms provided by your lender. This statement does not contain the terms of your financing agreement. If you have any questions about your financing agreement, contact

your finance provider before signing a contract.

### III. Fees

- A. **System Removal Fee:** Should you voluntarily elect to remove the system, or if the system must be removed in the event of your default under this Agreement, a remove fee of \$0.30 per watt will apply. *See* Page 2, Section 2.4.
- B. **Reconnection Fee:** Titan Solar Power NM Inc. reserves the right to disconnect your system if you are in default of the Agreement. *See* Page 7, Section 9.3(f)(vi). Should Titan Solar Power NM Inc. be required to disconnect your system, Titan Solar Power NM Inc. may charge a reasonable reconnection fee at a later date. *See* Page 7, Section 9.3(f)(viii).
- C. **Automatic Clearing House Fee:** For financed systems, your lender may charge an Automatic Clearing House Fee. Carefully read any agreements and/or disclosure forms provided by your lender.

### IV. Tax Credits, Rebates and Incentives and Renewable Energy Certificates:

- A. The distributed energy system may be eligible for the following (*See* Page 12, Section 14.2):
  - 1. The Renewable Energy Tax Credit (RETC): This federal tax credit, which is owned by the buyer and is not transferable, was not used in determining the Contract Price of the system. If eligible, this credit is 30%, or \$\_\_\_\_\_.For more information, visit:  
[https://www.energystar.gov/about/federal\\_tax\\_credits/2017\\_renewable\\_energy\\_tax\\_credits](https://www.energystar.gov/about/federal_tax_credits/2017_renewable_energy_tax_credits)
  - 2. No other tax incentives or rebates have been incorporated into this contract or used to determine the Contract Price of the system.
  - 3. Renewable Energy Certificate(s): Your system may generate Renewable Energy Certificates. These Certificates are owned by the buyer and are not transferable. The value of these certificates on the date the system is purchased and installed is \$0.00 but can increase over time. The Seller did not use these credits in determining the Contract Price of the system.

### V. Tax Obligations.

- A. As a result of purchasing this system, you may or may not be required to pay the following tax obligations: property taxes, gross receipt taxes, and business personal property taxes. Please consult a tax professional for guidance relating to potential tax changes and implications in property taxes, gross receipts taxes, and/or business personal property taxes. *See* Page 3, Section 3.6.

### VI. Transferability of Rights and Obligations Under Agreement.

- A. **Ownership of System:** Prior to Completed Installation and your payment of the Contract Price in full, Titan Solar Power NM Inc. owns all of the System Assets, and Buyer cannot modify or transfer ownership of the System Assets. *See* Page 4, Section 5.3.2; *see also* Page 6, Sections 9.3(d) and (e). "System Assets" means all the Work and all materials delivered to the Property, whether, or not incorporated in the system or the Property, as well as any tax credits, rebates, incentives, or renewable energy certificates associated with the system. Upon your complete payment of the Contract Price, ownership of the System Assets and any tax credits, rebates, incentives, or renewable energy certificates associated with the system, if eligible, shall pass to you and/or your financier.
- B. Titan Solar Power NM Inc. cannot assign or transfer its warranty and maintenance obligations to a third party. *See* Page 8, Sections 12.5 and 12.6. Titan Solar Power NM Inc. can, however, subcontract its warranty and maintenance work to a third party but will ultimately remain responsible for warranty and maintenance service obligations.
- C. The warranty provisions and restrictions listed in Article 7 are transferable to, and applicable for, any subsequent buyers of your home. *See* Article 7, Pages 4 and 5, for more information.

### VII. Performance Guarantees.

- A. System performance relating to production is estimated based on assumptions of system size, orientation, shading and slope of roof. This production is not guaranteed but is based in real data provided by NREL's (PV WATTS calculator). It is important to understand that future electric utility rates are estimates only.
- B. Titan Solar Power NM Inc. provides no warranty or guaranty with respect to any cost savings from use of the

system. Electric usage and savings are determined by many factors including but not limited to utility rates, amount of power used and loads applied from within and around the property any and all of which can cause a shift in the total amount of power needed to create savings.

- C. At the time of installation, it is anticipated the utility will compensate the purchaser of the system for excess generation at the rate of the current net metering agreement.

**VIII. Financial and Energy Saving Assumptions, Calculations and Comparative.**

- A. The Proposal, which was provided to the buyer, contains the assumptions used for calculating any financial and energy savings, including comparative estimates of savings. While historical data may have been used for these calculations, historical data is not necessarily representative of future results.

**IX. Rate Disclosure.**

- A. Actual utility rates may go up or down and actual savings may vary. For further information regarding rates, you may contact your local utility or the public regulation commission. Tax and other state and federal incentives are subject to change.

**X. Interconnection Disclosure.**

- A. Interconnection requirements, including time lines, are established by rules of the Public Regulation Commission and may be obtained from either the Public Regulation Commission or the local utility.

**XI. Installation, Permits and Inspections; Maintenance and Repairs.**

- A. Within thirty (30) days of Completed Installation or modification, the Seller shall provide the buyer with proof that:
  - 1. All required permits for the installation or any modification of the system were obtained prior to installation; and
  - 2. The system received was approved by an authorized inspector.
- B. Maintenance and Repairs: Any maintenance and/or system repairs required outside of the specified warranties is and will be the sole responsibility of the purchaser. See Page 12, Sections 13.2 and 13.4.

**XII. Security Filings.**

- A. Seller WILL \_\_\_\_ WILL NOT **X** file a fixture filing or UCC-1 Financing Statement with the County Clerk in your home's Real Property Records. Please note that a financier, at their sole discretion, may file a fixture filing or UCC-1 Financing Statement. Please see carefully read any agreements and/or disclosure forms provided by your lender.
- B. If the Seller filed a fixture filing or UCC-1 Financing Statement pursuant to the Uniform Commercial Code they must provide you a copy of the filed financing statement within thirty (30) calendar days of the filing.

**You have the right to rescind this Agreement for a period of three (3) days after the Agreement is signed. The Seller will also provide you with two copies a completed "Notice of Cancelation" form with the Agreement. See Pages 10-11 of the Agreement for more information.**

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

Co-Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

Titan Solar Power NM Inc.: \_\_\_\_\_ Date: \_\_\_\_\_

**STATE OF NEW MEXICO - TAXATION AND REVENUE DEPARTMENT**



# SOLAR ENERGY SYSTEMS TAX CREDIT DEDUCTION

## Purchase and Use Statement

### INSTRUCTIONS

**ABOUT THIS DEDUCTION:** Form RPD-41341, *Solar Energy Systems Gross Receipts Tax Deduction Purchase and Use Statement*, may be used by a New Mexico taxpayer for a gross receipts tax deduction for receipts from the sale and installation of a solar energy system. "Solar energy system" means an installation that is used to provide space heat, hot water or electricity to the property in which it is installed and is:

- an installation that utilizes solar panels that are not also windows, including the solar panels and all equipment necessary for the installation and operation of the solar panels;
- a dark-colored water tank exposed to sunlight, including all equipment necessary for the installation and operation of the water tank as a part of the overall water system of the property; or
- a non-vented trombe wall, including all equipment necessary for the installation and operation of the trombe wall.

Receipts from sale and installation of solar energy systems pursuant to Laws 2007, Chapter 204, Section 10 may be deducted from gross receipts when the sale is made to a person who submits a signed Form RPD-41341, Solar Energy Systems Gross Receipts Tax Deduction Purchase and Use Statement, or when the seller can provide evidence acceptable to the department that the service or equipment is purchased for the sole use of the sale and installation of a qualified solar energy system. Evidence acceptable to the department includes a description of what was sold, the amount of the sale and a description of the solar energy system being sold and installed.

When a seller accepts in good faith a person's written statement that the person is purchasing the equipment for the sole use of the sale or installation of a solar energy system pursuant to Laws 2007, Chapter 204, Section 10, the written statement shall be conclusive evidence that the proceeds from the transaction with the person having made this statement are deductible from the seller's gross receipts.

**Solar energy system** includes components or systems for collecting and/or storing energy, but does not include components or systems related to the use of the energy. Examples of use would include the pipes carrying heated water to a faucet or the electrical wire carrying electricity to an outlet.

**Installation of a solar energy systems** includes replacement of some part of the system, or a similar change to the system

that would qualify as an adjustment to basis for federal income tax purposes. Labor for maintenance or service of a solar energy system does not qualify for the deduction in the absence of an installation of some part of the system. Labor to perform postinstallation adjustments to the solar energy system qualifies when the adjustments are performed to optimize the operation of the solar energy system as part of the initial installation and are performed within one year of the initial installation.

#### DEFINITIONS:

**Equipment** means an essential machine, mechanism, or a component or fitting thereof, used directly and exclusively in the installation or operation of a solar energy system. Equipment that can be included in the solar energy system is limited to equipment that can be included in the basis of the property to which the solar energy system is installed as established under the applicable provisions of the Internal Revenue Code of 1986.

**Trombe Wall** is a sun-facing wall built from material that can act as a thermal mass, such as stone, concrete, adobe or water tanks, combined with an air space and glass to form a solar thermal collector.

**Solar thermal collector** means an energy system that collects or absorbs solar energy for conversion into heat for the purposes of space heating, space cooling or water heating.

**Solar panel** is a solar thermal collector, such as a solar hot water or air panel used to heat water, air, or otherwise collect solar thermal energy. "Solar panel" may also refer to a photovoltaic system.

**Solar thermal energy** is a technology for harnessing solar power for practical applications from solar heating to electrical power generation.

**Photovoltaic system** means an energy system that collects or absorbs sunlight for conversion into electricity.

**COMPLETING THE STATEMENT:** The **purchaser** must complete the written statement (top and bottom portions) and sign and date the statement, declaring to the seller that the equipment or installation services were purchased solely for the use of installation and operation of a solar energy system. The purchaser provides the top portion of the statement to the seller to substantiate the deduction. Provide a contact name and a CRS identification number or Federal Employer Identification Number (FEIN), if the purchaser is a business.

STATE OF NEW MEXICO - TAXATION AND REVENUE DEPARTMENT

## SOLAR ENERGY SYSTEMS TAX DEDUCTION

## Purchase and Use Statement

### BUYER'S COPY

**Purpose of this form.** Effective July 1, 2007, a deduction from gross receipts tax is available for the sale and installation of a solar energy system. The seller must have a signed copy of this Form RPD-41341, Solar Energy Systems Gross Receipts Tax Deduction Purchase and Use Statement, or other evidence acceptable to the department that the service or equipment is purchased for the sole use of the sale and installation of a qualified energy system before the seller may deduct gross receipts from the sale. When a seller accepts in good faith a person's written statement that the person is purchasing the service or equipment for the sole use of the sale and installation of a solar energy system pursuant to Laws 2007, Chapter 204, Section 10, the sale may be deducted from the seller's gross receipts. The seller must retain this statement on file. The seller may have one statement on file for each purchaser.

**SELLER**

**PURCHASER**

Name of Seller	Name of Buyer
Mailing Address	Mailing Address
City                      State                      Zip Code	City                      State                      Zip Code
CRS ID Number	Contact Name (if other than name of purchaser)      Phone
	If business, provide CRS ID number or FEIN

I declare that the equipment or service, or both, purchased is for the sole and exclusive use for the sale and installation of a solar energy system as defined in Laws 2007, Chapter 204, Section 10.

\_\_\_\_\_  
Signature of Purchaser (or agent)

\_\_\_\_\_  
Date

STATE OF NEW MEXICO - TAXATION AND REVENUE DEPARTMENT

SOLAR ENERGY SYSTEMS TAX DEDUCTION

Purchase and Use Statement

SELLER'S COPY

Declaration of purchaser. By signing this statement, the purchaser declares that the purchase(s) for which this written statement is issued:

- is for the sale of equipment or a component part, or for installation services for the equipment or component part of a qualified solar energy system pursuant to Laws 2007, Chapter 204, Section 10;
- that the equipment or component part is an essential machine, mechanism, or a component or fitting thereof, used directly and exclusively in the installation or operation of a solar energy system, and
- that the equipment or component part can be included in the basis of the property to which it is installed as established under the applicable provisions of the Internal Revenue Code of 1986.

SELLER

PURCHASER

Name of Seller	Name of Buyer
Mailing Address	Mailing Address
City State Zip Code	City State Zip Code
CRS ID Number	Contact Name (if other than name of purchaser) Phone
	If business, provide CRS ID number or FEIN

I declare that the equipment or service, or both, purchased is for the sole and exclusive use for the sale and installation of a solar energy system as defined in Laws 2007, Chapter 204, Section 10.

Signature of Purchaser (or agent)

Date