

## SOLAR LICENSE AGREEMENT

THIS SOLAR LICENSE AGREEMENT (“**Agreement**”), dated October , 2022 (the “Effective Date”), by and between the South Tahoe Public Utility District, a California public utility district, (“Licensor”) and Blue Dragon Holdings I, LLC<sup>1</sup>, a California limited liability company, (“Licensee”) is entered into at South Lake Tahoe, California. Licensee and Licensor are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

**WHEREAS**, Licensor is the owner of certain real property located at 1275 Meadow Crest Drive, South Lake Tahoe, California, 96150, as described in the attached Exhibit A and incorporated by this reference (“Property”);

**WHEREAS**, Licensee desires to obtain, and Licensor desires to provide, an irrevocable license (“**License**”) for the use of a portion of the Property, as described in the attached Exhibit B and incorporated by this reference (“Licensed Area”), for the installation, maintenance and operation of a solar photovoltaic system (“System”);

**WHEREAS**, the Licensed Area consists of the Solar Array Area, Insulation Area, Access/Utility Area and Utility Route as described on Exhibit B;

**WHEREAS**, Licensor will provide Licensee an access route through Licensor’s wastewater treatment plant (“WWTP”) to access the Licensed Area (“WWTP Access Route”) as described on Exhibit B;

**WHEREAS**, concurrent with the execution of this Agreement, Licensee and Licensor are entering into a Power Purchase Agreement of even date with this Agreement (“PPA”) under which Licensee has agreed to sell, and Licensor has agreed to purchase, electricity from the System pursuant to the terms of the PPA;

**WHEREAS**, the License is granted for the sole purpose of granting to Licensee the rights required for it to carry out its activities under the PPA; and,

**WHEREAS**, capitalized terms not defined in this Agreement shall have the meaning ascribed to them in the PPA.

**NOW, THEREFORE**, in consideration of the above recitals and mutual promises set forth below, the Parties agree as follows:

### 1. **GRANT OF LICENSE.**

**1.1 Grant.** Licensor grants to Licensee an irrevocable License to enter upon and use the Licensed Area, together with the right of ingress and egress to and from the Licensed Area, subject to the terms and conditions of this Agreement, for the purposes of construction, installation, maintenance, operation, and removal of the System. More specifically, the Solar Array Area shall

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<sup>1</sup> Note to Draft: SPV to be formed shortly.

be exclusive to Licensee and the Insulation Area, Access/Utility Area and Utility Route shall be non-exclusive to Licensee.

**1.2 Substitution License Area.** In the event the System is relocated under Section 2.11 of the PPA, the Parties shall amend this Agreement to cover the substitution Licensed Area.

**2. TERM.**

**2.1 Duration.** The term of this Agreement (“Term”) shall commence on the Effective Date and end on the date that is one eighty (180) days following the termination of the PPA, unless sooner terminated pursuant to Section 9.2.2, or pursuant to termination of the PPA (“Termination Date”).

**3. USE.**

**3.1 Permitted Use.** Licensee’s use of the Licensed Area (the “Permitted Use”) shall be limited to the following:

3.1.1 Solar Array Area. Licensee may use the Solar Array Area for the installation, construction, maintenance, operation, and removal of the System in accordance with the terms of the PPA and for no other use or purpose.

3.1.2 Insulation Area. Licensee may use the Insulation Area for the removal and maintenance of vegetation and trees to prevent shading of the solar array.

3.1.3 Access/Utility Area. Licensee may use the Access/Utility Area for ingress and egress from the WWTP to the Solar Array Area and installation, maintenance and operation of electrical and water utilities.

3.1.4 Utility Route. Licensee may use the Utility Route for installation, maintenance and operation of electrical utilities.

Licensee shall not permit or suffer any use of the Licensed Area for the use of others without first obtaining Licensor’s written consent.

**3.2 WWTP Access Route.** Licensee may use the WWTP Access Route for ingress and egress through the WWTP to the Licensed Area.

**3.3 Limited Licensor Warranties.** Licensor warrants that it is the fee owner of the Property, and has the authority and right to enter into this Agreement and grant the License. Except for the preceding warranty, Licensee acknowledges that Licensor has not made any representations or warranties regarding the Property or the Licensed Area, and Licensee is not relying upon any representation or warranty by Licensor or any third party regarding the Licensed Area, the fitness of the Licensed Area for any particular use of Licensee or any other matter.

**3.4 Subordination.** The License and all rights of Licensee hereunder are subject and subordinate to all existing leases, easements, rights of way, declarations, restrictions or other matters of record with respect to the Licensed Area. As of the Effective Date the Licensor shall disclose all such recorded and unrecorded existing leases, easements, rights of way, declarations, restrictions or other matters of record with respect to the Licensed Area. Licensor reserves the right to grant additional licenses, easements, leases or rights of way on the Property, whether recorded or unrecorded, as may be necessary, which do not interfere (including shading) with Licensee's use of the Licensed Area or operation of the System or otherwise violate the terms of the PPA.

**3.5 Applicable Laws, Regulations, Permits and Approvals.** Licensee's activities pursuant to the License shall comply with all applicable Federal, State and local laws, ordinances, rules and regulations, and all issued permits and licenses, including the Rule 21 Interconnection Agreement between Licensor and any public utility (collectively "Applicable Laws and Requirements"). Licensee shall not use or occupy the Licensed Area in violation of Applicable Laws and Requirements or any restriction affecting the Licensed Area, and shall, upon Licensee's receipt of written notice from Licensor, immediately discontinue any use of the Licensed Area which is declared by any governmental authority of competent jurisdiction to be a violation of Applicable Laws and Requirements until the violation, if any, is corrected and the applicable governmental authority concurs that the violation is corrected. Licensee shall provide Licensor with copies of all permits, approvals and conditions issued by applicable Federal, State and local governmental entities, including the applicable local electrical utility service company. Licensee shall promptly notify Licensor regarding any alleged or actual violation of any Applicable Laws and Requirements.

**3.6 Determination of Violation.** A final judgment of any court of competent jurisdiction or any administrative decision by any Federal, State or local administrative agency that is not appealed, that Licensee has violated any Applicable Laws and Requirements in the use of the Licensed Area shall be deemed to be a conclusive determination of that fact as between Licensor and Licensee.

**3.7 No Interference with Licensor Uses.** Licensee will use its best efforts to maintain the System and Licensed Area in a manner that does not interfere with Licensor's use of the Property or improvements to the Property; provided, however, that Licensee shall promptly remedy any such interference within a reasonable time after notice from Licensor. Licensor may construct, reconstruct, modify or make alterations to the Property, subject to the terms of the PPA, so long as such activities do not cause interference (including shading) with the operation of the System. To the extent that Licensee requires access to any other portions of the Property, including use of areas nearby to the Licensed Area for temporary "laydown" purposes in relation to construction of the System, Licensee shall obtain Licensor's prior approval, such approval not to be unreasonably withheld, and coordinate all such activities with Licensor to reduce any interference with Licensor's use of the Property.

#### **4. CONDITION OF LICENSED AREA.**

**4.1 Access and Inspection.** Licensee acknowledges that, in connection with Section 6.2(b) of the PPA, Licensee has and will be provided access to the Licensed Area in order to conduct feasibility and configuration assessments, environmental assessments, and other inspections of the Licensed Area, as Licensee deemed necessary pursuant to a Temporary Access and Due Diligence Agreement between Licensor and one of Licensee's consultants. Licensee will inspect the Licensed Area and every aspect thereof and determine whether the Licensed Area is in acceptable condition for Licensee's anticipated use of the Licensed Area as provided in the PPA.

**4.2 As-Is Condition.** The Licensed Area is delivered by Licensor in an "as-is" condition, and Licensee accepts the Licensed Area in its "as-is" condition. Licensor expressly disclaims and Licensee waives all implied warranties including, without limitation, any warranty of merchantability or warranty of fitness for a particular use or purpose.

#### **5. OWNERSHIP OF THE SYSTEM AND POSSESSORY INTEREST TAXES.**

**5.1 Title to the System.** Subject to Licensor's right to purchase the System pursuant to Article XXIII of the PPA, the System and all alterations, additions, improvements, or installations made to it by Licensee and all Licensee property used in connection with the installation, construction, operation, maintenance and/or removal of the System are, and shall remain, the personal property of Licensee (collectively "Licensee Property"). In no event shall any Licensee Property be deemed a fixture, nor shall Licensor, nor anyone claiming by, through or under Licensor (including but not limited to any present or future mortgagee of the Licensed Area) have any rights in or to the Licensee Property at any time.

**5.2 Security Interests in System.** Licensor acknowledges and agrees that Licensee may grant or cause to be granted to a Financing Party a security interest in the System and its rights in this Agreement, in accordance with the terms of the PPA. This Agreement does not grant Licensor any rights in the System other than those granted under the PPA.

**5.3 Possessory Interest Taxes.** Licensee shall pay any income taxes imposed on Licensee due to the sale of energy under the PPA. Licensor shall pay all real property taxes and assessments applicable to the Property. This Agreement may result in the creation of a possessory interest (Rev. & Tax. Code § 107.6). If such a possessory interest is vested in Licensee, Licensee may be subjected to the payment of personal property taxes levied on such interest in the System. Licensee shall be responsible for the payment of, and shall pay before becoming delinquent, all taxes, assessments, fees, or other charges assessed or levied upon Licensee and the System. Licensee further agrees to prevent such taxes, assessments, fees, or other charges from giving rise to any lien against the Property or any improvement located on or within the Licensed Area. Nothing herein contained shall be deemed to prevent or prohibit Licensee from contesting the validity or amount of any such tax, assessment, or fee in the manner authorized by law. Licensee shall be responsible for payment of any personal property taxes, possessory interest taxes, permit fees, business license fees and any and all fees and charges of any nature levied against the System and operations of Licensee at any time. If bills for taxes on the System are received by the Licensor, Licensor shall remit such bills to Licensee.

## **6. INSTALLATION, ACCESS TO AND SECURITY OF THE SYSTEM.**

**6.1 Installation.** The construction and installation of the System and all related matters are subject to, and shall be completed in accordance with the terms and conditions of the PPA which are incorporated by reference and made a part of this Agreement.

**6.2 Licensee's Access.** Licensee's access to the Licensed Area shall be subject to all procedures reasonably adopted from time to time by Licensor and provided in advance and in writing to Licensee. Only Licensee's employees, agents and/or contractors retained by Licensee and approved in writing by the Licensor shall be permitted access to the WWTP Access Route and the Licensed Area. Except in the case of emergencies, Licensee shall notify Licensor twenty-four (24) hours prior to accessing the WWTP Access Route and the Licensed Area. All representatives shall be required to show appropriate identification prior to accessing the WWTP Access Route and the Licensed Area. Licensee shall be permitted to access the WWTP Access Route and the Licensed Area twenty-four (24) hours per day, seven (7) days a week. Access to the WWTP Access Route and the Licensed Area by construction workers, material providers and agents of Licensee during construction shall be conducted so as to minimize interference with the operations of Licensor. Licensor reserves the right to revoke access privileges to any person employed or contracted by Licensee that Licensor reasonably determines to be disruptive, intemperate, unsafe, or who violates any Applicable Laws and Requirements or unreasonably disobeys any Licensor directive.

**6.3 Security.** At all times during the Licensee's construction and operations on the Licensed Area and any other authorized use areas, Licensee shall keep any and all areas of construction and operation adequately secured for safety and security purposes. Licensee shall have the right to install fencing and other security measures around the Solar Array Area. Licensee acknowledges that Licensor shall have no obligation whatsoever to provide guard services or other security measures for the benefit of Licensee (or its Lender) or the System. At all times that Licensor is present on in the Licensed Area, Licensor shall be responsible for any and all damage it may cause in accordance with the terms of the PPA.

**6.4 Sole Use of Solar Array Area.** Licensee shall have sole use of the Solar Array Area, and Licensor shall not, and shall not permit any other party to, enter into the Solar Array Area without the prior consent of Licensee. Notwithstanding the foregoing, Licensor shall have the right to enter into the Solar Array Area as provided in the PPA and in the event of an emergency without the prior consent of Licensee. Notwithstanding the above, Licensor shall be entitled to use the Insulation Area, Access/Utility Area and Utility Route for any purpose provided such use does not interfere with Licensee's use.

## **7. OPERATIONS AND MAINTENANCE.**

### **7.1 Licensee's Obligations.**

**7.1.1 Maintenance of Licensed Area.** Licensee shall be responsible for the System and all repairs and alterations in and to the Licensed Area, the need for which arises

out of (i) Licensee's use or occupancy of the Licensed Area, (ii) the installation, removal, use or operation of the System, or (iii) the act, omission, misuse, or negligence of Licensee, its agents, contractors, employees or invitees.

7.1.2 Health and Safety. Licensee shall comply with all Applicable Laws and Requirements pertaining to the safety of persons and real and personal property and shall take all necessary and reasonable safety precautions in constructing, operating and maintaining the System. Licensee shall promptly report to Licensor any death, injury, or damage to the Property that occurs within the Licensed Area.

7.1.3 Losses/Damages. Licensee shall be responsible for any death, injury, or damage to the Property and Licensor's personal property, equipment, or materials, to the extent caused by Licensee or any party for whom Licensee is responsible. All losses and damages by Licensee at the Licensed Area shall be reported to Licensor upon discovery by Licensee.

7.1.4 Hazardous Substances. If Licensee's Permitted Use requires use, storage, generation or disposal of any hazardous substance, Licensee shall provide a list of such hazardous substances for review and approval by Licensor prior to Licensee's use of such hazardous substance at the Licensed Area. If Licensee causes the presence of any Hazardous Substance on the Licensed Area or the Property that results in contamination, Licensee shall immediately notify Licensor and promptly, at its sole expense, take any and all necessary actions to return the Licensed Area (or the Property, as applicable) to the condition existing prior to the presence of any such Hazardous Substance in the Licensed Area (or the Property). Licensee shall first obtain Licensor's written approval for any such remedial action.

7.1.5 Utility Location. Licensee shall be responsible for locating utilities within the Insulation Area, the Access/Utility Area and the Utility Route for any project or work constructed by Licensor within the vicinity of such areas and route.

7.1.6 Removal Obligation. Subject to Licensor's option to purchase the System pursuant to Article XXIII of the PPA, Licensee will remove the System within one hundred eighty (180) days after expiration or earlier termination of this Agreement and in accordance with Section 2.14 of the PPA.

## 8. INSURANCE AND INDEMNITY.

8.1 Insurance. The Parties shall comply with the insurance requirements set forth under Article XX of the PPA which are incorporated into this Agreement by this reference.

8.2 Indemnification. The Parties shall comply with the indemnification obligations in Article XIX of the PPA, which are incorporated into this Agreement by this reference.

**8.3 Waiver and Release/Limitation of Damages.** The terms of Article XXII of the PPA shall apply to any and all claims arising under this Agreement and are incorporated by reference.

**9. DEFAULTS AND REMEDIES.**

**9.1 Event of Default.** Each of the following events shall be deemed to be an “Event of Default” hereunder:

9.1.1 Any material default by a Party of its obligations hereunder, in the event such default is not cured within thirty (30) calendar days after receipt of written notice of the default from the non-defaulting Party setting forth in reasonable detail the nature of such default; provided, that in the case of any such default that cannot be reasonably cured within the thirty (30) calendar days, then the defaulting Party shall have additional time, but in any event not longer than ninety (90) days, to cure the default if it commences in good faith to cure the default within such thirty (30) calendar day cure period and it diligently and continuously pursues such cure.

9.1.2 Any default of the PPA by a Party.

**9.2 Remedies.** Upon the occurrence of an Event of Default by a Party, subject to a Financing Party’s right to cure a Licensee default pursuant to Section 10.4.4, in addition to any other rights and remedies available at law or in equity and subject to the provisions of this Agreement, the non-defaulting Party shall have the option to pursue any one or more of the following remedies:

9.2.1 If the default relates to work to be performed by the defaulting Party, perform such work or cause it to be performed, for the account of the defaulting Party, without waiving such Event of Default, and without liability to the defaulting Party for any loss or damage which may result to the defaulting Party’s equipment or business by reason of such work, and the defaulting Party, on demand shall pay to non-defaulting Party as a license fee hereunder, the cost of such work plus ten percent (10%) thereof as administrative costs.

9.2.2 Terminate this Agreement by providing a thirty (30) day written notice to the defaulting Party indicating that this Agreement has been terminated (subject to Licensee’s right to remove the System and any other Licensee Property from the Licensed Area pursuant to the PPA).

**10. ASSIGNMENT; FINANCING.**

The terms of Section 24.6 of the PPA related to assignment and financing shall apply to this Agreement and are incorporated by this reference.

## 11. **DISPUTES.**

11.1 **Disputes.** Any dispute, controversy, or claim arising out of or in connection with this Agreement shall be resolved in accordance with Article XXI of the PPA.

## 12. **MISCELLANEOUS.**

12.1 **Notices.** All notices shall be provided in accordance with the requirements of the PPA.

12.2 **Complete Agreement; Modification.** The terms and provisions of this Agreement, together with the PPA and other referenced documents, constitute the entire Agreement between Licensor and Licensee and shall supersede all previous communications, representations, or agreements, either oral or written, between Licensor and Licensee relating to the subject matter hereof. No amendment or modification of this Agreement shall be binding on either Party unless such amendment is reduced to writing and signed by authorized representatives of both Parties and a Financing Party, if applicable.

12.3 **Cumulative Remedies.** Except as set forth to the contrary herein, any right or remedy of Licensor or Licensee shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

12.4 **Non-Waiver.** The failure, delay or forbearance by either Party to exercise any of its rights or remedies under this Agreement or to provide written notice of any default to a defaulting Party, will not constitute a waiver of such rights or remedies. No Party will be deemed to have waived any right or remedy unless it has made such waiver specifically in writing. The waiver by either Party of any default or breach of any term, condition or provision herein contained shall not be deemed to be a waiver of any subsequent breach of the same term, condition or provision, or any other term, condition or provision contained herein.

12.5 **Savings Clause.** Should any provision of this Agreement for any reason be declared invalid or unenforceable by final and non-appealable order of any court or regulatory body having jurisdiction, such decision shall not affect the validity of the remaining portions, and the remaining portions shall remain in full force and effect as if this Agreement had been executed without the invalid portion. Any provision of this Agreement that expressly or by implication comes into or remains in full force following the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

12.6 **Counterparts.** This Agreement may be executed in counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

12.7 **Survival.** In addition to any provisions of this Agreement specified to survive in accordance with the terms thereof, the provisions of this Section and Sections 2.1, 5.3, 7.1.3, 7.1.4, 8.1, 8.2, 8.3, 11.1, 12.21, and 12.13 shall survive the termination of this Agreement.

**12.8 Relationship of Parties.** The relationship between Licensor and Licensee shall not be that of partners, agents, or joint ventures for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between the Parties for any purposes, including federal income tax purposes.

**12.9 Successors and Assigns.** This Agreement and the rights and obligations under this Agreement shall be binding upon and shall inure to the benefit of Licensor and Licensee and their respective permitted successors and assigns.

**12.10 Applicable Law.** This Agreement and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of the State of California with venue proper only in the County of El Dorado, California.

**12.11 Estoppel Certificate.** Either Party hereto, without charge, at any time and from time to time, within five (5) Business Days after receipt of a written request by the other Party hereto, shall deliver a written instrument, duly executed, certifying to such requesting Party, or any other person, firm or corporation specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such Party there are then existing any offsets or defenses in favor of such Party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such Party the other Party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by a Party hereto. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

**12.12 Attorneys' Fees.** In the event that any court or arbitration proceeding is brought under or in connection with this Agreement, the prevailing party in such proceeding (whether at trial or on appeal) shall be entitled to recover from the other party all costs, expenses, and reasonable attorneys' fees incident to any such proceeding. The term "prevailing party" as used herein shall mean the party in whose favor the final judgment or award is entered in any such judicial or arbitration proceeding.

**12.13 Memorandum for Recordation.** Licensee shall not record this Agreement. Upon request of Licensee, Licensor shall execute a memorandum of this Agreement reasonably acceptable to both Parties, which Licensee may record, at its cost, in the land records of the county in which the Licensed Area is located.

**12.14 Updates to Exhibits.** Upon the request of Licensee, Licensor shall execute an amendment to this Agreement in order to update Exhibit A and/or Exhibit B to reflect a detailed legal or survey description of the Property and Licensed Area.

**12.15 Time is of the Essence.** Time is of the essence with respect to performance of every provision of this Agreement.

**12.16 Authority.** Each of the individuals executing this Agreement on behalf of Licensee or Licensor represents to the other Party that such individual is authorized to do so by requisite action of the Party to this Agreement.

**12.17 Third Party Beneficiaries.** Except as otherwise expressly provided herein, this Agreement is for the sole benefit of the Parties hereto and their permitted successors and assigns, and nothing in this Agreement or any action taken hereunder shall be construed to create any duty, liability or standard of care to any Person not a Party to this Agreement. Except as specifically otherwise provided herein, no Person shall have any rights or interest, direct or indirect, in this Agreement.

**12.18 Interpretation.** Unless otherwise required by the context in which any term appears: (i) the singular shall include the plural and vice versa; (ii) all references to a particular entity shall include a reference to such entity's successors and permitted assigns; (iii) the words "herein," "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular Article or subparagraph hereof; (iv) the words "include," "includes" and "including" mean include, includes and including "without limitation;" (v) references to this Agreement shall include a reference to all appendices, annexes, schedules and exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time; and (vi) the masculine shall include the feminine and neuter and vice versa. The Parties have collectively prepared this Agreement, and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

**12.19 Conflicts with PPA.** Nothing in this Agreement, including Sections 4.1 and 4.2, is intended to, and shall not be interpreted to, reduce, expand or otherwise modify Licensee's obligations in relation to the construction and operation of the System as set forth in the PPA. In the event of any conflict between this Agreement and the PPA, the terms of the PPA shall control.

**12.20 Governing Law.** The interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with the laws of the State where the System is located, without regard to its principles on conflict of laws. The venue for any dispute arising out of or relating to this Agreement shall be in the California County in which the System is located.

**IN WITNESS WHEREOF** and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, Licensor and Licensee have executed this Agreement as of the Effective Date.

**Licensor:**

South Tahoe Public Utility District

By: \_\_\_\_\_  
Kelly Sheehan, President

ATTEST:

By: \_\_\_\_\_  
Melonie Guttry, Clerk of the Board

**Licensee:**

Blue Dragon Holdings I, LLC

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

NAME: Sandipan Bhanot

TITLE: Manager

*[Signature Page to Solar License Agreement]*

**Exhibit A**

Property Description

(This Exhibit will be completed once the Facilities included in this contract have been selected by Licensee and approved by Licensor)

**Exhibit B**

Licensed Area Map and System Definition

(This Exhibit will be completed once the Facilities included in this contract have been selected by Licensee and approved by Licensor)