



TERMS AND CONDITIONS

These Terms and Conditions constitute an agreement (the “Agreement”) between the user (“Company”) and Wave Media Group LLC, a Delaware limited liability company doing business as Wave Solar (“Wave Solar”), and apply to the performance of any and all Services (as defined below). By using Wave Solar’s website (the “Site”) and engaging Wave Solar to perform the Services, the Company agrees to and becomes bound by the terms of this Agreement.

1. Recitals. This Agreement is entered into with reference to the following recitals of essential facts: Wave Solar is in the business of generating and selling leads to its clients. Company is in the business of solar photovoltaic leasing and related matters. Pursuant to this Agreement, Company desires to purchase leads from Wave Solar, and Wave Solar desires to sell leads to Company.

2. Services.

2.1. Wave Solar agrees to perform Lead (as defined below) generation services in accordance with this Agreement (collectively, the “Services”). A “Lead” is the contact information for a potential customer (whether or not such potential customer becomes an actual customer of Company). Wave Solar shall use commercially reasonable efforts to include the following information for each Lead: name, address and certain contact information.

2.2. Leads shall be filtered based on zip codes or other information (“Filtering Criteria”) provided by Company to Wave Solar. Company may modify the Filtering Criteria by written communication to Wave Solar and confirmed by Wave Solar in writing, or by modifying the Filtering Criteria on the Site. All lead filtering is done based on data submitted by the Company whether or not that data is proven to be accurate. In certain instances, Wave Solar may update customer data based on information provided, in an effort to ensure increased accuracy of such data.

2.3. For any non-exclusive Leads provided to Company, Wave Solar may sell or otherwise disclose such non-exclusive Leads to up to three (3) other Wave Solar clients in the same industry as Company. For any exclusive Leads provided to Company, Wave Solar will not sell or otherwise disclose such exclusive Leads to other Wave Solar clients in the same industry as Company.

2.4. Company may modify the applicable Filtering Criteria at any time via (i) the Site, or (ii) by written communication to Wave Solar and confirmed by Wave Solar in writing. In the event of conflicting changes by Company, Wave Solar shall implement the most recent change by Company to Company’s service account. Company agrees and acknowledges that any such changes may affect the supply of Leads to Company. Notwithstanding any modifications made by Company to its service account, this Agreement shall govern the purchase of all Leads by Company from Wave Solar.

3. Payment Terms.



3.1. Company must pay for all Leads in full prior to Wave Solar's delivery of the Leads at a price which is set forth in an e-mail provided to Company by an authorized Wave Solar representative. Such pricing may be changed by Wave Solar at any time.

3.2. If Wave Solar decides, in its sole and absolute discretion, to provide Leads to Company prior to the receipt of advance payment for such Leads, Company shall be invoiced by Wave Solar. Invoice payments are due ten (10) calendar days from the date of receipt of an invoice. If Wave Solar does not receive payment of an invoice within ten (10) calendar days, in addition to all other rights and remedies under this Agreement and/or applicable law, (i) Wave Solar may suspend or cease performing the Services; and (ii) such outstanding amounts will accrue interest at the lesser of 1.5% per month or the maximum legally permissible rate until paid in full. Company will also pay to Wave Solar all costs and expenses, including attorneys' fees and costs, incurred by Wave Solar in collecting on and/or enforcing an invoice.

3.3. Company shall pay all service, sales, use and value-added taxes, duties, assessments and any other taxes or fees which may be assessed or levied by any governmental or regulatory authority with respect to the payment received by Wave Solar for the Services provided by Wave Solar to Company pursuant to this Agreement.

3.4. Company may pay by credit card, check, ACH or wire transfer. Company agrees to the payment conditions Company selects via the Site or via Confirmed Communication. Company represents and warrants that any credit card information provided to Wave Solar is complete and accurate and that Company is authorized to use such credit card. Accordingly, Company authorizes Wave Solar to (i) bill the credit card provided by Company for any and all charges and fees, including recurring payments, related to the purchase of Leads, and (ii) retain such credit card information until such time as Company revokes this authorization. Company understands that revoking authorization may be grounds for suspension of Company's service account unless an acceptable alternative method of payment is established with Wave Solar. Company agrees not to initiate a chargeback with respect to any Lead fees with the credit card issuer unless Company has exhausted all attempts to resolve any disputes directly with Wave Solar. Company further understands that initiating a chargeback does not terminate Company's obligation to pay in full any and all amounts due to Wave Solar pursuant to this Agreement. Company shall defend, indemnify and hold Wave Solar Indemnitees harmless against any and all Claims related to or arising out of: (i) this credit card authorization, or (ii) Wave Solar use of any credit card information supplied by Company to Wave Solar

4. Lead Return Policy. Company will be entitled to receive a full credit for the amount paid for a Lead if: A (i) such Lead's phone number has been disconnected, (ii) the Lead rents (as opposed to owns) the subject property, or (iii) the Lead does not occupy the subject property, and (B) Company requests the credit in writing from Wave Solar no later than ten (10) calendar days after the Lead was delivered to the Company (the "Lead Return Policy"). Wave Solar reserves the right to terminate, revise and/or amend the Lead Return Policy, at any time, and from time to time, in its sole and absolute discretion effective ten (10) calendar days following written notice to Company.

5. Termination. The Services and this Agreement may be terminated by either party upon thirty (30) calendar days written notice to the other party. The Services and this Agreement may be



terminated immediately if upon written notice: (i) the other party has breached any representation, warranty or covenant in this Agreement or failed to properly perform its obligations under this Agreement, and such breach or failure remains uncured for a period of ten (10) calendar days after receipt of written notice of such breach or failure, or (ii) the other party makes any general arrangement or assignment for the benefit of creditors, goes into liquidation, commences bankruptcy proceedings, or suffers the attachment, execution, or seizure of substantially all of its assets, or if a receiver or administrative receiver or administrator is appointed in respect of any of its assets. Upon termination of this Agreement, Company will immediately pay to Wave Solar any and all amounts due to Wave Solar under this Agreement, including (a) for Leads/Services provided prior to the date of such termination, and (b) for any contracted for, but undelivered Leads.

6. Representations, Covenants and Warranties. Company represents and warrants to Wave Solar that:

6.1. Company has the full right, power and authority to enter into and perform under this Agreement without the consent of or notice to any third party. This Agreement constitutes a valid and binding obligation of Company, enforceable in accordance with its terms.

6.2. Company will only use the Leads for direct solicitation of business related to Company's Business, and will not use the Leads for any other purpose or re-sell, transfer, dispose or otherwise distribute or publicize the Leads.

6.3. Company will, including in connection with the use of any Leads provided hereunder, or any use of Wave Solar services or software, fully comply with all applicable federal, state and local laws, rules and regulations and ordinances, including, without limitation, the Telephone Consumer Protection Act of 1991 (the "TCPA"), the Telemarketing and Consumer Fraud and Abuse Prevention Act (the "TCFAPA"), the Telemarketing Sales Rule (TSR), CAN-SPAM Act of 2003, and any similar federal and state legislation regarding text messages, call recordings, disclaimers and use of telephone numbers, emails, and telephone marketing. Company acknowledges that Wave Solar is not offering legal advice and does not represent that use of Wave Solar's software capability to dial or send text messages to phone numbers complies with the aforementioned laws. Wave Solar encourages Company to consult legal advisors regarding compliance of Company's practices with state and federal laws. Company specifically agrees to indemnify, defend, and hold harmless Wave Solar for any alleged violations of law including those specifically mentioned here.

6.4. Company has all applicable licenses, permits, insurance (including, without limitation, Workers Compensation and Commercial General Liability Insurance), certifications and accreditations, required to perform the work arising out of or in connection with the Leads, and shall bear the obligation to make all filings and obtain and maintain any and all necessary and/or applicable governmental approvals or licenses relating to Company's business and the use of the Leads.

6.5. Company will supply Wave Solar with all information and materials necessary to perform the Services.



6.6. Company will cooperate in any investigation related to the Leads.

6.7. Company shall comply with all applicable federal, state and local laws, rules, regulations and ordinances governing or relating to privacy rights in connection with its performance under this Agreement, the use of the Leads, or work arising out of or in connection with the Leads, including, without limitation, state online privacy protection laws. Company shall implement such physical and other security measures as shall be necessary to: (i) ensure the secure handling, transmission, storage and disposal or any “nonpublic personal information” related to the Leads or of the customers and consumers, (ii) protect against any threats or hazards to the security and integrity of such nonpublic personal information, and (iii) protect against any unauthorized access to or use of such nonpublic personal information.

7. DISCLAIMER AND LIMITATION OF LIABILITY.

7.1. DISCLAIMER. EXCEPT AS PROVIDED IN THIS AGREEMENT, WAVE SOLAR MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION, WITH RESPECT TO THE LEADS, THE ACCURACY OF ANY LEADS, THAT ANY REVENUE THAT MAY BE GENERATED BY COMPANY FROM ANY LEADS OR THAT WAVE SOLAR WILL GENERATE ANY LEADS, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. COMPANY ACKNOWLEDGES THAT INFORMATION PROVIDED BY WAVE SOLAR TO COMPANY WILL BE BASED, IN PART, ON DATA SELF-REPORTED BY THE LEAD AND THEREFORE WAVE SOLAR DOES NOT GUARANTEE THE ACCURACY OF ANY SUCH INFORMATION. COMPANY ACKNOWLEDGES IT MUST INDEPENDENTLY VERIFY ALL MATERIAL INFORMATION.

7.2. LIMITATION OF LIABILITY. WAVE SOLAR SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, REVENUE OR LOSS OF GOODWILL SUFFERED BY COMPANY OR ANY AFFILIATE OR COMPANY TO OR ARISING OUT OF THE PERFORMANCE OF THE SERVICES OR THIS AGREEMENT, THE COURSE OF DEALING BETWEEN THE PARTIES, LEADS OR OTHERWISE, AND/OR FROM ANY OTHER CAUSE WHATSOEVER, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL WAVE SOLAR'S LIABILITY FOR ANY CAUSE OF ACTION EXCEED AMOUNTS RECEIVED BY WAVE SOLAR FROM COMPANY DURING THE THREE (3) CALENDAR MONTHS PRIOR TO THE DATE OF THE FILING OF SUCH CAUSE OF ACTION. EACH AND EVERY PROVISION OF THIS AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES OR EXCLUSION OF DAMAGES IS EXPRESSLY INTENDED TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION SINCE THOSE PROVISIONS REPRESENT SEPARATE ELEMENTS OF RISK ALLOCATION BETWEEN THE PARTIES, AND SHALL BE SEPARATELY ENFORCED. BOTH PARTIES ALSO AGREE THAT THE PRICE OF THE LEADS REFLECTS THE ALLOCATION OF RISK, WARRANTY AND LIMITATION OF LIABILITY PROVISIONS HEREIN.



8. Intellectual Property. "Intellectual Property" means any and all intellectual property rights and proprietary information of every kind and nature, in any country, including, without limitation, all past, present, and future (and derivative works of and from): (a) rights to inventions (whether patentable or otherwise), patents, patent applications, and industrial property rights; (b) information however documented that may be a trade secret within the meaning of the trade secret laws of the state of California or the United States of America; (c) rights to trademarks and trade names, whether or not registered, slogans, logos, and similar items; (d) rights associated with works of authorship, including exploitation rights, copyrights, moral rights, and circuitry of electronic components (whether or not registered or registerable); (e) rights to software, methods, techniques, know-how and other proprietary rights or intellectual property rights of every kind and nature; and (f) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications currently filed or to be filed, relating to any of the foregoing. "Wave Solar Intellectual Property" means any and all Intellectual Property rights of Wave Solar, including without limitation all Leads, materials, offerings, pricing information and all Intellectual Property rights relating in any way to software, hardware, technology, and operating applications developed by Wave Solar for lead generation. Company acknowledges and agrees that all proprietary rights in and to Wave Solar Intellectual Property are and shall remain exclusively the property of Wave Solar. If any Wave Solar Intellectual Property is in the possession of Company, such Wave Solar Intellectual Property shall be immediately returned to Wave Solar at the expiration or termination of the Services or this Agreement, and Company shall certify in writing, under penalty of perjury, to Wave Solar that such return has occurred in accordance with this Agreement. During the term of this Agreement, Wave Solar grants to Company a non-exclusive, non-transferable, non-sublicenseable and limited license to use the Leads for purposes of contacting and soliciting such potential consumers regarding Company's products and services. The foregoing license shall terminate immediately upon termination of the Services or this Agreement for any reason. Notwithstanding any statement in this Agreement to the contrary, Company grants Wave Solar a limited, perpetual, non-exclusive, approval-free, royalty-free, license to use Company's name, trade name, trademarks, service marks and logos on Wave Solar's (i) publicly available customer list and (ii) marketing materials.

9. Indemnification. Company will indemnify, defend and hold harmless Wave Solar and its officers, directors, shareholders, agents, employees, affiliates, successors and assigns, and each of them (the "Wave Solar Indemnitees") against all claims, demands, actions, causes of action, liabilities, damages, losses, costs and expenses, including without limitation attorneys' fees and costs (collectively, "Claims") relating to or arising from: (a) any activity, work or thing done, permitted or suffered by Company or any affiliate, agent, employee, representative, or contractor of Company, including without limitation, any marketing, installation or maintenance work or services performed in connection with or use of any Lead provided by Wave Solar, (b) any breach or default in the performance of any obligation to be performed by Company under this Agreement, (c) any breach of any representation or warranty of Company set forth in this Agreement, (d) negligence or willful misconduct of Company or its affiliates, agents, employees, contractors, representatives or customer, (e) violation by Company, or its affiliates, agents, employees, representatives or contractors of any applicable federal, state and local laws, rules, regulations or ordinances, or (f) claims by any of Company's affiliates, agents, employees, representatives or contractors. If any action or proceeding is brought against Wave Solar Indemnitees by reason of any such Claims,



Company upon notice from Wave Solar will defend such action or proceeding at Company's sole cost by legal counsel satisfactory to Wave Solar in its sole and absolute discretion.

10. General Provisions.

10.1. Force Majeure. Neither party shall be liable for any failure to perform, or any delay in performing, its obligations under this Agreement (other than payment obligations) if such failure or delay arises out of, is caused by or results from any of the following: act of nature, act of war, acts of terrorism, fire, flood, catastrophic accident, unusually severe weather conditions, strike, labor dispute, unanticipated governmental action or telecommunications service failure.

10.2. Independent Contractor. The relationship of the parties pursuant to this Agreement is one of independent contractors and no agency, partnership, joint venture, or similar relationship is created by this Agreement. Neither party shall have the right, power or authority to create any obligation, expressed or implied, or to make any representation on behalf of the other party, except as may be expressly authorized from time to time by such other party in writing and then only to the extent of such authorization. Company will be solely liable for all remuneration, compensation or other payments which may be due to Company employees, independent contractors, vendors, suppliers, or other service providers.

10.3. Governing Law; Jurisdiction. This Agreement is governed by and construed in accordance with the laws of the State of California, irrespective of California's choice-of-law principles. Any action or proceeding brought hereunder shall be brought in the state or federal courts sitting in Alameda County, California, the parties hereto hereby waiving any claim or defense that such forum is not convenient or proper. Each party hereby agrees that any such court shall have personal jurisdiction over such party, consents to service of process in any manner authorized by California law, and agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner specified by law.

10.4. Attorney's Fees. The prevailing party in any litigation, arbitration, bankruptcy, insolvency or other proceeding ("Proceeding") relating to the enforcement or interpretation of this Agreement may recover from the other party all costs, expenses, and actual attorney's fees (including expert witness and other consultants' fees and costs) relating to or arising out of (a) the Proceeding (whether or not the Proceeding proceeds to judgment), and (b) any post-judgment or post-award proceeding including, without limitation, one to enforce or collect any judgment or award resulting from the Proceeding. All such judgments and awards will contain a specific provision for the recovery of all such subsequently incurred costs, expenses, and actual attorney's fees.

10.5. Assignment. Wave Solar may assign this Agreement and the right to perform the Services to any assignee at its sole and absolute discretion.

10.6. Amendment; Waiver. This Agreement may be amended, modified or superseded only by a written instrument signed by all of the parties to this Agreement. No party shall be deemed to have waived compliance by another party of any provision of this Agreement unless such waiver is



contained in a written instrument signed by the waiving party and no waiver that may be given by a party will be applicable except in the specific instance for which it is given.

10.7. Drafting Ambiguities. The rule of construction that ambiguities are to be construed against the drafting party will not be employed in connection with the interpretation of this Agreement.

10.8. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties related to its subject matter and supersedes all prior proposals, understandings, agreements, correspondence, arrangements and contemporaneous oral agreements relating to the subject matter of this Agreement. No representation, promise, inducement or statement of intention has been made by any party which has not been embodied in this Agreement.

10.9. Severability. Each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement or the application of such provision to any person or circumstance will, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected by such invalidity or unenforceability, unless such provision or such application of such provision is essential to this Agreement.

10.10. Further Assurances. Each party to this Agreement will execute all instruments and documents and take all actions as may be reasonably required to effectuate this Agreement.

10.11. Notices. All notices or other communications required or permitted to be given to a party to this Agreement will be in writing and will be personally delivered, sent by certified mail, postage prepaid, return receipt requested, or sent by an overnight express courier service that provides written confirmation of delivery. Each such notice or other communication will be deemed given, delivered and received upon its actual receipt, except that if it is sent by mail in accordance with this Section, then it will be deemed given, delivered and received three (3) days after the date such notice or other communication is deposited in accordance with this Section. Any party to this Agreement may give a notice of a change of its address to the other party.

10.12. Authority. The person accented to this Agreement on behalf of Company represents that he or she is duly authorized to cause Company to enter into this Agreement.

10.13. Survival. Sections 3 and 6-10 (inclusive) will survive indefinitely after the termination of the Services or this Agreement.