

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement” or “Agreement”) is made and entered into by and between (1) Plaintiffs Michael Allagas, Arthur Ray, Brett Mohrman, and Brian Dickson (collectively “Plaintiffs”), individually and as Class Representatives of the “Settlement Class” (defined below); (2) Defendant BP Solar International, Inc. (“BP”) (defined below); and (3) Defendant Home Depot U.S.A., Inc. (“THD”) (defined below). BP and THD are collectively referred to as the “Defendants.” Plaintiffs, the Settlement Class, BP, and THD are collectively referred to as the “Parties.”

I. DEFINITIONS

In addition to any definitions set forth above or elsewhere in this Agreement, the following terms, as used in the Agreement, shall have the meaning set forth below:

A. The “Action” means *Allagas, et al. v. BP Solar International, Inc., et al.*, No. 3:14-cv-00560-SI (N.D. Cal.).

B. “BP” means Defendant BP Solar International, Inc., a Delaware corporation with its principal place of business in Houston, Texas, and each of its parents, predecessors, subsidiaries, affiliates, officers, directors, partners, employees, agents, servants, assignees, counsel, successors, and/or other transferees or representatives.

C. “THD” means Home Depot U.S.A., Inc., a Delaware corporation with its principal place of business in Atlanta, Georgia, and each of its parents, predecessors, subsidiaries, affiliates, officers, directors, partners, employees, agents, servants, assignees, counsel, successors, and/or other transferees or representatives.

D. “Class Panels” means photovoltaic modules manufactured by BP from 1999 to 2007 which utilize the S-type junction box. Each of the model numbers set forth in this

paragraph included modules that utilized the S-type junction box although certain of these model numbers also included modules that utilized other junction boxes. For purposes of this Agreement, Class Panels are divided into two groups:

1. “FDK+ Panels” are a subset of the Class Panels that correspond to (a) model numbers produced primarily or exclusively at the Frederick, Maryland manufacturing facility from March 1, 2005 through October 31, 2006, or (b) model numbers with Junction Box Failure rates in excess of 4.5 percent as of mid-2015, as reflected in BP’s analysis of its warranty claims database. The model numbers for modules that may be FDK+ Panels are as set forth below. An asterisk denotes that the model number includes both FDK+ and Non-FDK+ Panels; as to these model numbers, only those produced from March 1, 2005 through October 31, 2006 are included in the FDK+ category.

BP 170I	BP4175B	BP3165S
BP170B	BP4175I	BP5170S
BP175B	SX150B*	BPSX150S
BP175I	SX160B	BPSX3150S
BP3140S*	SX170B	BPSX3160S
BP3150S	SX4175S	SX140S
BP3160B*	(a/k/a	SX150L
BP3160S	BPS4175S)	SX150S
BP4170B	BP2150S	SX160S

2. “Non-FDK+ Panels” consist of all Class Panels that are not FDK+ Panels, and include all Class Panels of the following model numbers that are not FDK+ Panels. For avoidance of doubt, “Non-FDK+ Panels” also include any Class Panels manufactured by BP from 1999 to 2007 with model numbers not listed below or in § D.1. but that utilize the S-type junction box and were sold and installed in the United States.

BP2140S	BP3140B	BP3160B
BP3115S	BP3140S	BP3160L
BP3123XR	BP3150B	BP3160QS
BP3125Q	BP3150L	BP375S
BP3125S	BP3155S	BP380L

BP380S	BPSX140S	SX140B
BP4150S	MSX110	SX150B
BP4160S	MSX110L	SX3190B
BP4170S	MSX120	SX3190S
BP485L	MSX120L	SX3195B
BP585DB	SX110S	SX3195S
BP7190S	SX120S	

E. “Class Member” means a member of the Settlement Class.

F. “Class Counsel” means:

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

Robert J. Nelson (rnelson@lchb.com)
275 Battery St, 29th Floor
San Francisco, CA 94111-3343
(415) 956-1000
(415) 956-1008 (fax)

BIRKA-WHITE LAW OFFICES

David M. Birka-White (dbw@birka-white.com)
65 Oak Court
Danville, CA 94526
(925) 362-9999
(925) 362-9970 (fax)

G. “Defendants’ Representatives” means:

ARNOLD & PORTER LLP

Matthew T. Heartney (matthew.heartney@aporter.com)
777 South Figueroa Street, 44th Floor
Los Angeles, CA 90017
(213) 243-4000
(213) 243-4199 (fax)

BP SOLAR INTERNATIONAL, INC.

Michael Rigo (michael.rigo@bp.com)
700 Louisiana St, 32nd Floor
Houston, TX 77002
(713) 354-2100
(713) 354-2120 (fax)

H. “Effective Date” means the later of either (1) the expiration of the deadline for filing a notice of appeal from the Court’s Final Approval of the Settlement with no appeal being

filed or (2) if an appeal is filed, the latest of (i) the date on which the Court receives a remand order from the last and final appellate court that considers an appeal affirming the Final Approval; (ii) the expiration of the time for filing a petition for writ of certiorari or review of the Final Approval if affirmed, and if certiorari is granted, the date of the remand order from the court granting certiorari or review after that court affirms the Final Approval; or (iii) the date of final dismissal of any appeal from the Final Approval or the final dismissal of any proceeding on certiorari or review of the Final Approval that has the legal effect of affirming or confirming the Final Approval.

I. “Failed Panel” means a Class Panel for which the cable to busbar solder joint inside the junction box has failed (“Junction Box Failure”). Criteria that will be applied in identifying Class Panels that have experienced a Junction Box Failure are set forth in the Claims Protocol, which is attached hereto as Exhibit 1.

J. “Final Approval” means the entry of the Court’s Final Order and Judgment granting full and final approval of this Agreement without any material modification not agreed to by all Parties.

K. “Nationwide Claims” means the claims relating to the Class Panels that will be alleged on behalf of the Settlement Class in the Conditional Third Amended Complaint.

L. “Parties” means Plaintiffs, the Settlement Class, BP, and THD.

M. “Settlement Class” means all persons or entities in the United States (a) who purchased Class Panels for initial installation on a property or who purchased properties on which Class Panels had first been installed, and (b) who currently own some or all of those Panels. Excluded from the Class are: (1) Defendants, any entity in which Defendants have a controlling interest, and their legal representatives, officers, directors, employees, assigns and successors; (2) the United States government and any agency or instrumentality thereof; (3) the

judge to whom this case is assigned and any member of the judge's immediate family; and (4) persons who timely and validly opt to exclude themselves from the Settlement Class. In addition, Class Members' claims for personal injury and wrongful death are initially reserved, and shall be released only pursuant to § XII below.

N. A "Large Non-Residential Class Member" ("LNR Class Member") is a Class Member that owns a non-residential photovoltaic system that includes Class Panels and, in total, is comprised of 400 or more modules of any kind.

II. RECITALS

A. Plaintiffs filed the Action on January 9, 2014 as a putative class action against Defendants on behalf of California purchasers and subsequent owners of Class Panels. Plaintiffs alleged that a defect in the Class Panels' junction box causes them to fail, resulting in a loss of electric current and safety risks ("Alleged Junction Box Defect"). Plaintiffs alleged that Defendants violated California and federal consumer protection laws, and express and implied warranties. On June 17, 2015, Plaintiffs filed a Second Amended Complaint ("SAC") that refined the Class definition.

B. On January 8, 2016, Plaintiffs filed their motion to certify a class of California purchasers and subsequent owners of Class Panels. Dkt. 150. On February 12, Defendants filed their opposition brief (Dkt.157), and a motion to strike Plaintiffs' design defect and failure rate experts. Dkt. 158. On February 29, 2016, Plaintiffs filed their reply in support of class certification (Dkt. 160), and their opposition to Defendants' motion to strike. Dkt. 161.

C. Defendants deny all claims asserted by Plaintiffs and deny all allegations of wrongdoing or liability of any kind associated with the claims alleged in any and all complaints filed by Plaintiffs, and further contend that, for any purpose other than settlement, the action is not appropriate for class treatment. Defendants also contend that they have complied at all times

with all applicable laws.

D. Plaintiffs contend that the Action is meritorious and appropriate for class treatment. Class Counsel and Plaintiffs have concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interest of the Settlement Class after considering the benefits to be obtained under the Agreement, the risks associated with the continued prosecution of this complex and time consuming litigation, and the likelihood of the success on the merits.

E. The Parties have engaged in more than two years of litigation, research, investigation, discovery, expert work, and motion practice to reach this Agreement. Discovery included hundreds of requests for production of documents, dozens of interrogatories, and production and review of over 500,000 pages of documents; expert discovery with 13 retained experts who prepared 18 separate reports; over 20 depositions, including expert depositions; and inspection of over 1,200 installed Class Panels and hundreds of other returned Class Panels stored at a hazardous waste facility. Further, the parties fully briefed numerous motions to compel and Plaintiffs' motion for class certification (supported by close to 100 exhibits), and Plaintiffs filed oppositions to Defendants' *Daubert* challenges of four of Plaintiffs' class certification experts.

F. The Parties mediated Plaintiffs' claims with mediator Randall Wulff on February 1–2, 2016. During this mediation, the Parties engaged in arm's-length negotiations with Mr. Wulff's assistance. At the mediation, the Parties made progress on some, but not all, of the issues required to resolve the case.

G. Following the mediation, the Parties completed briefing on Plaintiffs' class certification motion and conducted briefing on Defendants' motion to strike Plaintiffs' class certification experts. The Parties also exchanged information in advance of a third day of

mediation scheduled with Mr. Wulff on March 1, 2016.

H. At the March 1, 2016 mediation, the Parties reached agreement on all substantive terms of the agreement with the assistance of the mediator. After reaching agreement on the substantive terms, the Parties negotiated the amount of attorneys' fees and costs that Defendants would pay to Class Counsel (subject to Court-approval) and class representative service awards. The Parties reduced their agreement to a Memorandum of Understanding, which was executed by Class Counsel and Defendants and their counsel on March 1, 2016.

I. The Parties desire to settle the Action in its entirety with respect to all claims, including the Nationwide Claims, relating to Class Panels sold in the United States. The Parties intend this Agreement to bind BP, THD, the Plaintiffs, and all members of the Settlement Class who do not timely opt out. It is the intention of the Parties that this Agreement shall constitute a full and complete settlement and release of claims as described in § XII, *infra*.

J. The Parties stipulate that Plaintiffs will file a Conditional Third Amended Complaint ("CTAC") along with their motion for preliminary approval of Settlement and Notice Plan. The CTAC will assert claims substantially similar to those in the Second Amended Complaint on behalf of a nationwide Class. At least ten (10) business days before this Agreement is signed, Plaintiffs will provide to counsel for Defendants a copy of the CTAC in the exact form in which it is intended to be filed. Thereafter, any change to the CTAC before it is filed with the Court must be approved in writing by counsel for Defendants. As part of their stipulation, the Parties agree that, if the Effective Date of the Settlement is not reached for any reason, the CTAC shall be deemed withdrawn and thereafter shall be void and ineffective for any purpose. Thereafter, the operative complaint in the Action shall be Plaintiffs' SAC.

K. The Parties agree that the Court shall certify the claims asserted in the CTAC on a nationwide basis, solely for the purpose of implementing the Settlement provided for in this

Agreement. The Parties also agree that Plaintiffs Michael Allagas, Arthur Ray, Brett Mohrman, and Brian Dickson shall be deemed to be members of the Settlement Class.

III. SETTLEMENT BENEFITS

A. Class Members with FDK+ Panels

1. BP shall contribute \$45.33 million to a trust account that will be used to fund the replacement of FDK+ Panels (“Common Fund”). Upon granting of preliminary approval, Class Counsel shall establish and maintain in effect a trust fund (the “Common Fund Trust Account”) into which the Common Fund amounts funded by BP will be deposited. The Common Fund Trust Account will be established at a banking institution with assets in excess of \$1 billion and shall be deposited in an interest-bearing account with that institution. After excluding all costs provided for in this Agreement, including but not limited to appropriate taxes, notice costs, administration costs, attorneys’ fees and costs, and service awards to the Plaintiffs, the amount contributed to the Common Fund Trust Account will be set aside to make payments towards the relief described below. Claims for relief submitted to the Common Fund shall be administered by the ICA pursuant to this Agreement and the Claims Protocol. The Claims Protocol is hereby incorporated into this Agreement for all purposes as though set forth herein in full.

2. Claims timely submitted by Class Members will initially be evaluated by the ICA as more fully set forth in the Protocol. Once the ICA has determined that the information provided by the Claimant suffices to justify an initial inspection of the Claimant’s PV system (“Initial Inspection”), to confirm the Claimant’s ownership of Class Panels, to determine if the Class Panels are FDK+ or Non-FDK+, and to collect other information, the ICA shall dispatch an Approved Inspector to carry out this inspection. An “Approved Inspector” is an inspector selected by the ICA pursuant to the Claims Protocol.

3. If, pursuant to the Claims Protocol, the Claimant's PV system is determined to include FDK+ Panels, the ICA shall engage a Remediation Contractor to replace all of the FDK+ Panels installed in the system. A "Remediation Contractor" is a contractor licensed and qualified to perform panel replacements and inverter installations as more fully set forth in the Protocol. A Remediation Contractor will be selected by the ICA pursuant to the Claims Protocol. If the Claimant's PV system includes both FDK+ and Non-FDK+ Panels and the number of FDK+ Panels makes up more than 50 percent of the total Class Panels in the system, all of the system's Class Panels will be replaced.

4. In order to receive compensation from the Common Fund, Class Members must surrender possession of all panels for which such Class Member is receiving compensation pursuant to the procedures set forth in the Claims Protocol. The Class Panels will be surrendered to the ICA, which shall then be responsible for their disposal.

5. The ICA shall implement the terms of the Agreement and this Protocol as efficiently as possible, and shall make all reasonable efforts not to exceed an average of \$2.35 per watt for the removal, replacement, and disposal of the Class Panels contemplated by the Agreement and this Protocol, including but not limited to material and labor costs for removal of Class Panels and installation of replacement panels. FDK+ Class Members may choose to retain their own contractor for the replacement work (or to forego replacing the Class Panels) but all Class Panel removal and disposal will be handled by the ICA. In this event, once the Class Panels have been removed by the ICA, the Class Member will receive payment at the rate of \$2.35 per watt removed, less the cost of removal and disposal of the Class Panels.

6. The claims period for the Common Fund will commence 14 days after the Effective Date, and will remain open until the Common Fund is exhausted. When the amount committed to the Common Fund in § III.D.1. *supra*, less all disbursements from the Common

Fund made up to that date, falls to \$7,500,000, the ICA shall have discretion to adjust Settlement payments based on factors reasonably related to ensuring the distribution of Common Fund benefits to all expected claimants, such as the claims rate, average replacement cost, and expected claims rate.

7. Beginning three years after the Effective Date, and periodically thereafter as appropriate, the ICA and Class Counsel, in consultation with Defendants' Representatives, may assess whether the Common Fund can accommodate reimbursement to FDK+ Class Members for out of pocket costs necessarily incurred in connection with replacement of FDK+ Class Panels. This assessment shall take into account any necessary factors to ensure the ongoing availability of the Common Fund for removal, replacement, and disposal of Class Panels as provided for in this Agreement, including but not limited to the total claims paid, costs per claim, remaining funds, and potential and expected additional claims. The ICA shall then submit a proposal to Class Counsel and Defendants' Representatives for approval for reimbursement of any such necessarily incurred costs, giving priority to permits, inverters, and racking, in that order. Approval authority of the proposal shall lie with Class Counsel, with input from Defendants' Representatives to be given due consideration. In order to facilitate this process, the ICA shall include language in correspondence with FDK+ Class Members that they maintain records of any out of pocket costs and documentation that it was necessarily incurred.

8. Class Counsel and the ICA shall confer on the winding down of the Common Fund, and attendant close of the claims period, when the remaining balance is sufficiently low or at another appropriate time, and shall consult with Defendants' Representatives with respect to this decision. The remaining Common Fund balance, less any expected administrative costs, will first be used to reimburse Class Members for any out-of-pocket costs as set out in § III.A.7., *supra*. If a balance remains in the Common Fund thereafter,

Class Counsel shall petition the Court to distribute it *cy pres*.

9. In exchange for the relief described above, Defendants will receive from all FDK+ Class Members the release provided in § XII, *infra*.

B. Class Members with Non-FDK+ Panels

1. BP shall fund a claims made settlement program for Class Members with Non-FDK+ Panels which shall be implemented as provided in this Agreement and the Claims Protocol (“Claims Made Program”). BP’s obligation to fund the Claims Made Program is capped at \$20 million, including administrative costs, but exclusive of the \$2 million in attorneys’ fees to be paid pursuant to § XI.A. herein. Upon granting of preliminary approval, Class Counsel shall establish and maintain in effect a trust fund (“the Claims Made Trust Account”) into which the Claims Made Program amounts funded by BP shall be deposited. The Claims Made Trust Account will be established at a banking institution with assets in excess of \$1 billion and shall be deposited in an interest-bearing account with that institution.

2. The claims period for the Claims Made Program will commence 14 days after the Effective Date, and will remain open for three years from that date or until such time as the Claims Made Trust Account, including the \$20 million cap, is exhausted, whichever shall occur first. The ICA shall process all claims received within this period.

3. If, during the class period for the Claims Made Program, the Initial Inspection of a Claimant’s PV system discloses that the system includes Non-FDK+ Panels, the Initial Inspection shall include a visual inspection of the Claimant’s Non-FDK+ Panels in the manner and to the extent called for by the Claims Protocol. If the Initial Inspection reveals any Non-FDK+ Panels that constitute Failed Panels, the ICA shall engage a Remediation Contractor to replace such Non-FDK+ Panels that constitute Failed Panels. If the cumulative Junction Box Failure rate of the Non-FDK+ Panels at any Class Member system exceeds 20%, inclusive of any

past Junction Box Failures documented in BP's warranty database, the ICA shall arrange for replacement of all Non-FDK+ Panels in that system.

4. If not all Non-FDK+ Panels at a Class Member's system are replaced following the Initial Inspection, the ICA shall arrange to purchase and install an Approved Inverter equipped with arc-fault detection technology. An "Approved Inverter" means a model and make of inverter selected by the ICA in consultation with the technical consultants designated by the Parties pursuant to the Claims Protocol. The Parties, the ICA, the Common Fund Trust Account, and the Claims Made Trust Account shall not be subject to any responsibility, warranty, or obligation for the performance or maintenance of the inverter, or for ongoing operations of the inverter, including, without limitation, to test or check any trips or faults. If, during the Claims Made Program, a Class Member subsequently receives full replacement of all Non-FDK+ Panels for any system owned by that Class Member because of a cumulative failure rate greater than 20% (*see* § III.B.5., *infra*), the Class Member shall either reimburse the Claims Made Trust Account for the cost of the Approved Inverter and its installation before the replacement of Non-FDK+ Panels takes place or, if the Class Member elects to receive a monetary payment pursuant to § III.B.7 below, the cost of the Approved Inverter and its installation shall be subtracted from this amount.

5. For any system that has not received full replacement of all Non-FDK+ Panels during the three-year claims period, the Class Member may submit additional claims during that period ("Subsequent Claims") in the manner and to the extent set forth in the Claims Protocol, subject to the limitations on subsequent claims set forth therein. A valid Subsequent Claim shall entitle the Class Member to a Subsequent Inspection and replacement of any additional Non-FDK+ Panels that constitute Failed Panel(s). If at any time during the 3-year term of the Claims Made Program the cumulative Junction Box Failure rate of Non-FDK+

Panels at any Class Member's system exceeds 20%, inclusive of any past failures documented in BP's warranty database or during the Initial Inspection or in Subsequent Inspections, the ICA shall arrange for replacement of all remaining Non-FDK+ Panels in that system, subject to the inverter credit (*see* § III.B.4., *supra*).

6. For any system owned by a Class Member, the ICA may spend no more than \$2.35 per watt on average for the removal, replacement, and disposal of Class Panels replaced pursuant to the Claims Made Program. In order to receive any replacement panels (or compensation) under the Claims Made Program, Class Members must surrender possession to the ICA of all panels for which such Class Member is receiving compensation pursuant to the procedures set forth in the Claims Protocol, which shall then be responsible for their disposal.

7. Non-FDK+ Class Members may choose to retain their own contractor for the Class Panel replacement work called for above (or to forego replacing the Class Panels, *see* below) but all Class Panel removal and disposal will be handled by the ICA. In this event, once the Class Panels to be replaced have been removed by the ICA, the Class Member will receive payment at the rate of \$2.35 per watt removed, less the cost of removal and disposal of the Class Panels. However, when Non-FDK+ Class Members qualify to receive an Approved Inverter as part of the Claims Made Program, this work shall be performed by the ICA only, without any option for Class Members to retain their own contractor or to forego installing an Approved Inverter in order to receive monetary compensation.

8. After the Claims Made Program ends, either because it expires or because the \$20 million cap is reached, any Non-FDK+ Panels that constitute Failed Panels will be addressed pursuant to BP's standard warranty program.

9. In exchange for the relief described above, Defendants will receive from all Non-FDK+ Class Members the release provided in § XII below and a waiver of the right to

seek class-wide adjudication of any claims relating to Class Panels in the future.

C. **LNR Class Members**

1. LNR Class Members will be invited to enter into commercial negotiations with BP mediated by the ICA or another agreed upon third party. Any relief provided to LNR Class Members shall be borne by Defendants and not the Common Fund Trust Account or Claims Made Trust Account. This invitation will remain open until 60 days after the Second Notice provided in § VIII(B) below is completed. If a LNR Class Member does not request the commercial negotiation by this deadline, any rights under the Settlement will expire, but the LNR Class Member's warranty rights under BP's applicable Warranty Certificate will remain undisturbed, including its right to file an individual lawsuit limited to enforcing those warranty rights. If a LNR Class Member does request participation in the commercial negotiation, its opt-out rights shall be extended until 15 days after the conclusion of these negotiations, regardless of the designated opt-out period for all other Class Members.

2. In exchange for agreeing to this procedure, Defendants will receive from all LNR Class Members a waiver of the right to seek class-wide adjudication of any claims relating to Class Panels in the future.

D. **Funding of the Settlement Amounts**

Amounts used to fund the Common Fund and Claims Made Trust Accounts will be deposited as follows:

1. **Common Fund Trust Account**

BP will pay into the Common Fund Trust Account pursuant to this schedule: 40% of the Common Fund in the first year (*after* deduction for attorneys' fees and costs, notice costs, and service awards), payable upon the 21st day following the Effective Date, 40% in the second year, payable upon the 21st day following the one year anniversary of the Effective Date, and 20% in

the third year, payable upon the 21st day following the second year anniversary of the Effective Date.

2. **Claims Made Trust Account**

BP will pay into the Claims Made Trust Account pursuant to this schedule: \$3 million payable 21 days following the Effective Date (exclusive of attorneys' fees), with \$2 million to be added each time the fund drops to \$250,000, payable upon at least 21 days advance written notice from the ICA, until the cap is reached, with any funds remaining in the Claims Made Trust Account after the three-year claims period to be promptly returned to BP.

3. **Advance of Class Notice and Other Pre-Effective Date Costs**

Within 10 business days following entry of the Preliminary Approval Order, BP shall advance a total of \$1,200,000 to fund costs of the Initial Notice (not more than \$1,000,000) and other anticipated pre-Effective Date administrative costs (not more than \$200,000). Of this amount, \$1,100,000 shall be deposited into the Common Fund Trust Account and \$100,000 into the Claims Made Trust Account. These advances, and any accrued interest, shall be credited against the initial contributions to these funds called for above. Should this Agreement be terminated prior to occurrence of all events necessary to achieve the Effective Date, all funds that remain in the Common Fund Trust Account and the Claims Made Trust Account, less any reasonable costs incurred for the Initial Notice and pre-Effective Date administrative costs that have not yet been paid, shall be promptly returned to BP.

IV. CLAIMS ADMINISTRATION

A. Jennifer Keough of JND Legal Administration will be appointed as Independent Claims Administrator ("ICA"). The ICA will implement the Common Fund and Claims Made Program as provided in this Agreement and the Claims Protocol. In administering the Settlement, the ICA shall be guided at all times by this Agreement and the Claims Protocol. If

needed, the ICA may consult with Class Counsel and Defendants' Representatives to obtain their input in answering any questions or clarifying the meaning of this Agreement or the Claims Protocol.

B. All reasonable and necessary costs and expenses associated with the implementation of this Agreement by the ICA shall be paid from the appropriate settlement fund: the Common Fund Trust Account and the Claims Made Trust Account. These accounts will be maintained by Class Counsel and funds shall be distributed to the ICA periodically as these costs are incurred pursuant to the procedures set forth in the Claims Protocol. Administration and inspection costs related to FDK+ Class Members will be paid from the Common Fund Trust Account. Administration and inspection costs related to Non-FDK+ Class Members will be paid from the Claims Made Trust Account. Administration costs related to LNR Class Members will be paid by BP. Administration costs not specifically related to either FDK+ or Non-FDK+ Class Members will be divided between the Common Fund Trust Account and the Claims Made Trust Account in proportion to the following ratio (60% to the Common Fund Trust Account/40% to the Claims Made Trust Account) until the Claims Made Program ends; thereafter, such costs will be borne solely by the Common Fund Trust Account.

C. The ICA shall establish a toll-free telephone number and website (www.BPSolarSettlement.com) to process claims and provide information related to the Settlement ("Settlement Website"). All telephone calls and website inquiries will be handled by properly trained Customer Service Representatives (CSRs).

D. The Claim Form shall be substantively identical to Exhibit 2. Claim Forms will be made available to Class Members by the ICA. Claim Forms may be submitted online, by email, by facsimile, or by U.S. Mail. Claim Forms and instructions regarding submission of claims will be available on the ICA's website in both English and Spanish.

E. To the extent feasible, Defendants shall take reasonable steps to assist the ICA in taking advantage of contractual benefits or rates Defendants have secured related to the inspection, removal, replacement, and disposal of Class Panels as part of their existing warranty/customer satisfaction programs.

V. SPECIAL MASTER

A. The parties propose that Judge Richard Kramer (Ret.) be appointed as Special Master to resolve disputes arising out of the implementation of this Agreement that are referred to him/her pursuant to the terms of this Agreement or the Claims Protocol. The Special Master shall determine such disputes either with or without a hearing as he shall conclude, based upon the information and documents submitted by the parties to the dispute in such manner as required by the Special Master, and shall set forth that determination in a writing provided to Class Counsel and Defendants' Representatives and, where the dispute was submitted by a Claimant, to the affected Claimant. Except in the case of disputes of unusual complexity or extent, the Special Master shall determine any dispute within 15 days after it is submitted to him/her or pursuant to a schedule agreed to by the affected parties.

1. If, at any time during the implementation of this Settlement, Class Counsel or Defendants' Representatives believe that the ICA is carrying out his/her responsibilities in a manner that is inconsistent with this Agreement or the Claims Protocol, they shall initially seek to resolve this matter informally through communications or meetings jointly with the ICA and counsel for the other Parties. If the matter is not resolved informally, either Class Counsel or Defendants' Representatives shall have the right to submit the disputed matter to the Special Master.

2. Pursuant to the Claims Protocol, the Special Master may also be called upon to review objections to an ICA Decision or Notice of Claim Decision resolving claims

submitted by FDK+ or Non-FDK+ Class Members. If such disputes cannot be resolved informally as provided in the Claims Protocol, either Class Counsel, Defendants' Representatives, or the Claimant (acting either on his or her own behalf or through Class Counsel) shall have the right to submit the dispute to the Special Master, subject to the procedures, requirements and limitations set forth in the Claims Protocol. Except as provided in § V(B) of this Agreement, the Special Master's ruling shall be final and not subject to further review.

B. In the case of any dispute submitted to the Special Master that involves the interpretation or application of any term or provision of this Agreement or the Claims Protocol that may substantially affect how this Settlement is applied to the claims of a significant number of Class Members, either Class Counsel or Defendants' Representatives may petition the Court for review of the Special Master's determination of the dispute.

C. The Special Master shall submit invoices to the ICA for his/her fees and expenses. All reasonable and necessary fees and expenses of the Special Master shall be charged against the Common Fund Trust Account or the Claims Made Trust Account depending upon the Class Member(s) to which the dispute relates or, if the dispute does not relate only to one set of Class Member(s) or the other, such fees and expenses shall be divided between the Common Fund Trust Account and the Claims Made Trust Account in proportion to the following ratio (60% to the Common Fund Trust Account/40% to the Claims Made Trust Account) until the Claims Made Program ends; thereafter, such costs will be borne solely by the Common Fund Trust Account.

VI. COURT APPROVAL

A. Preliminary Approval.

1. Upon full execution of this Agreement, the Parties will take all necessary

steps to obtain an Order from the Court, substantially in the form agreed upon by the Parties, granting conditional certification of the Settlement Class, granting preliminary approval of this Agreement, approving the forms and methods of notice to the Settlement Class set forth herein, approval of Plaintiffs as Class Representatives and Plaintiffs' Counsel as Class Counsel, and appointment of Jennifer Keough of JND Legal Administration as ICA, Judge Richard Kramer (Ret.) as Special Master, and HF Media LLC as Notice Provider ("Preliminary Approval Order").

2. If the Court does not enter a Preliminary Approval Order, this Agreement shall terminate, upon the notification of termination by a Party, and be of no force or effect, unless the Parties voluntarily agree to modify this Agreement in a manner needed to obtain Court approval. If the Court enters a Preliminary Approval Order that materially departs in a substantive manner from the proposed form of order submitted with the motion for preliminary approval or that materially alters a term in this Settlement, this Agreement shall terminate, upon the notification of termination by a Party, and be of no force or effect, unless the Parties voluntarily agree to accept the Preliminary Approval Order entered by the Court, including, if applicable, their agreement to modify this Agreement in a manner described by the Court.

B. Final Approval.

1. This Agreement is subject to and conditioned upon the entry by the Court, following a fairness hearing, of a Final Order and Judgment that grants Final Approval to the Agreement ("Final Order and Judgment"). Such Final Order and Judgment shall be final, binding and conclusive upon Defendants and all members of the Settlement Class who have not timely and validly opted-out pursuant to § IX of this Agreement, and shall:

- a. Confirm certification of the Settlement Class;
- b. Confirm the appointment of Class Counsel;

- c. Confirm the appointment of the Plaintiffs as class representatives;
- d. Confirm appointment of Jennifer Keough of JND Legal

Administration as ICA;

- e. Confirm Judge Richard Kramer (Ret.) as Special Master;
- f. Confirm HF Media LLC as Notice Provider;
- g. Dismiss with prejudice the Conditional Third Amended Complaint

in the Action;

- h. Bar and enjoin all Class Members that do not opt out from

asserting any of the Released Claims (as defined below);

- i. Release Defendants from the Released Claims which any Class

Member (that has not opted out) has, had, or may have in the future;

- j. Determine that this Agreement is fair, adequate and reasonable,

and in the best interests of the Settlement Class; and

- k. Reserve the Court's continuing and exclusive jurisdiction over the

Parties to this Agreement, including Defendants and all Class Members, to administer, supervise, construe and enforce this Agreement in accordance with its terms for the mutual benefit of the Parties.

- 2. If the Court declines to enter a Final Order and Judgment that grants Final

Approval to this Agreement, this Agreement shall terminate, upon the notification of termination by a Party, and be of no force or effect, unless the Parties voluntarily agree to modify the Agreement in a manner needed to obtain Court approval.

VII. BP'S ADMINISTRATION OF ITS WARRANTY PROGRAM PENDING THE EFFECTIVE DATE

- A. Warranty claims relating to Class Panels submitted by Claimants between the

granting of Preliminary Approval and the Effective Date shall be administered by BP, which shall include any claims submitted but for which BP has not agreed upon settlement with such claimant prior to the granting of Preliminary Approval. BP shall process and resolve such warranty claims in a manner that is consistent with the terms of this Agreement and the Claims Protocol, except that BP shall not be required to install Approved Inverters pursuant to § III(B)(4). With respect to FDK+ Panels, BP shall take reasonable and appropriate steps to resolve these claims such that the cost for removal, replacement and disposal of the solar panels (excluding the Initial Inspection cost) does not materially exceed an average of \$2.35/watt computed over all claims relating to FDK+ Panels that are subject to this Section VII and, in seeking reimbursement under this paragraph for claims relating to FDK+ Panels, will not in any event pursue reimbursement for an amount in excess of an average of \$2.35/watt for removal, replacement and disposal of FDK+ Panels. With respect to Non-FDK+ Panels, BP shall ensure that its reimbursable costs for removal, replacement and disposal of the solar panels do not exceed \$2.35/watt per claimant. Upon the Effective Date and the funding of the Common Fund Trust Account and Claims Made Trust Account, the ICA shall reimburse BP for its costs to process and resolve the warranty claims for Class Panels that are subject to this Section VII (exclusive of employee time incurred in processing the claims), including costs for third-party inspections, purchase of panel replacements, installation and disposal costs, and other third-party costs that will be paid pursuant to this Agreement after the Effective Date. If a determination is made pursuant to § III.V.7 *supra* that reimbursement shall be provided by the Common Fund to class members for out-of-pocket costs not originally paid by the Settlement, such as permits, inverters or racking, BP shall be entitled to compensation on the same terms and conditions as class members for such costs paid by it when resolving claims prior to the Effective Date pursuant to this Section.

B. Claims involving FDK+ Panels shall be reimbursed from the FDK+ Common Fund. Claims involving Non-FDK+ Panels shall be reimbursed from the Non-FDK+ Claims Made Trust Account. In the event that a claim involves both FDK+ Panels and Non-FDK+ Panels, reimbursement shall be from both the Common Fund Trust Account and Claims Made Trust Account proportionally to the number of panels of each type for which relief was provided pursuant to this Agreement.

C. BP shall provide documentation from its warranty database to the ICA and Class Counsel detailing the relief it provided to each Claimant and the Class Panels involved on a monthly basis through the Effective Date. This documentation shall include a listing of model types and serial numbers for the Class Panels replaced or (if this information is not available) other information sufficient to identify whether such panels are FDK+ Panels or Non-FDK+ Panels, information sufficient to exclude any LNR claims, and the amount paid or incurred to resolve each claim. Class Counsel shall have ten (10) business days to review and raise any questions or objections to BP's request for reimbursement in writing; provided, however, that if Class Counsel requires additional time to complete its review, Defendants' Representatives shall not unreasonably withhold their consent. Should Class Counsel raise any question or objection, Defendants' Representatives and Class Counsel shall meet and confer to resolve any dispute. If the parties are unable to reach an agreed resolution, the dispute shall be resolved by the Special Master.

D. Upon the Effective Date, BP shall promptly transfer responsibility to the ICA for administration of the resolution of any warranty claims submitted prior to the Effective Date but for which (i) a settlement arrangement has not been reached with such Class Member as of the Effective Date or (ii) all compensation agreed to in such settlement agreement has not been paid as of the Effective Date. In either case, no Class Member shall be entitled to additional remedies

or compensation duplicative of that administered by BP prior to the Effective Date (such as the Initial Inspection), although the ICA may install Approved Inverters for Non-FDK+ Class Members whose claims were administered pursuant to this paragraph and who would have received such relief had their claims been resolved following the Effective Date. In addition, if such Class Member has agreed to a settlement amount to be paid, the ICA shall administer such settlement, as agreed upon, providing compensation at the times and in the amounts agreed with such Class Member out of the Common Fund Trust Account or Claims Made Trust Account, as applicable.

VIII. NOTICE TO THE CLASS

A. HF Media LLC shall serve as Notice Provider.

B. The Class Notice (the “Notice Plan”) will consist of an initial notice following Preliminary Approval (the “Initial Notice”), and a second notice 18 months after the Initial Notice (the “Second Notice”). The Notice Provider shall be responsible for implementing the Notice Plan approved by the Court as part of the Preliminary Approval Order. Notice shall be delivered throughout the United States, however primary emphasis will be on the States in which the Class Panels principally were sold. Notice costs will be paid by the Common Fund Trust Account up to a cap of \$1.7 million, with a target of up to \$1 million for Initial Notice and \$500,000 for Secondary Notice. Thereafter, either on their own initiative or following a request from Defendants’ Representatives, Class Counsel and the ICA may consider whether sufficient funds are available in the Common Fund for a further supplemental notice and, if so, implement that notice.

C. Not later than two weeks after the Motion for Preliminary Approval is filed, Defendants shall provide to the ICA and the Notice Provider the following information in a readable electronic format, to the extent available, for use in identifying purchasers of Class

Panels in the United States, whether at wholesale or retail: (1) the purchaser's name, address, phone number, fax number and email address; (2) the model numbers and serial numbers of the Class Panels purchased; and (3) the address(es) at which those panels were installed. BP, in addition, shall export from its warranty databases, to the extent available, (1) the name, address, phone number, fax number and email address of each owner of any Class Panels installed in the United States who has made a warranty claim or received warranty service for those panels and (2) the address(es) at which the Class Panels were installed. Defendants shall also provide this data to Class Counsel. Not later than two weeks after the Motion for Preliminary Approval is filed, Class Counsel shall provide to ICA and the Notice Provider the following information, to the extent available: the names, addresses, phone number, fax number and email addresses of potential Class Members who have contacted Class Counsel. Subsequently, not later than ten (10) business days following the Effective Date, BP shall provide to the ICA a copy of the warranty claims information produced during discovery in the Action and a file, in a readable electronic format, that identifies owners of Non-FDK+ Panels that constitute Failed Panels for which BP has provided replacement panels or monetary compensation under its warranty program with respect to such Non-FDK+ Panels and the number of Non-FDK+ Panels that constitute Failed Panels for which such relief was granted for each such owner. The ICA, Notice Provider and Class Counsel shall maintain the confidentiality of all documents, data, and the information supplied pursuant to this paragraph shall be treated as Highly Confidential under the terms of the existing Protective Order entered by the Court.

D. The ICA shall be responsible for compiling the documents, data and information received pursuant to the foregoing paragraph (apart from the second-to-last sentence of that paragraph), or that is available from any other source, into a single, unified list in a readable electronic format that identifies (eliminating duplicate entries) the names, addresses and contact

information of all known potential Class Members (“List Of Potential Class Members”). Not later than 7 days after receiving the files described in § VIII.C., the List Of Potential Class Members shall be provided to Class Counsel, Defendants’ Representatives, and the Notice Provider. As the List Of Potential Class Members is updated and expanded when additional information is obtained, the updated list shall be provided to Class Counsel and Defendants’ Representatives. The Parties agree to and will request approval by the Court of the forms and methods of notice set forth in the proposed Notice Plan, which shall be submitted to the Court along with the motion for preliminary approval.

E. In addition to the Notice Plan, Defendants shall independently transmit the Summary Notice and Long Form Notice to LNR Class Members that they are aware of.

F. Not later than ten (10) days after the filing of Plaintiffs’ Motion for Preliminary Approval, Defendants shall have complied with the obligations set forth under the Class Action Fairness Act, 28 U.S.C. § 1715. Defendants shall notify Class Counsel and the Court of their compliance with 28 U.S.C § 1715.

IX. OPT-OUT AND OBJECTION RIGHTS

A. All Class Members shall have the right to opt out of the class at any time during the opt-out period. FDK+ and Non-FDK+ Class Members must timely complete and mail a written request for exclusion to the ICA before the deadline set forth in the Initial Notice. The request for exclusion must include (i) the Class Member’s full name, current address, telephone number, and the property location where the Class Panels are installed (ii) a statement by the Class Member that they “want to be excluded from the proposed class in *Allagas v. BP Solar International, Inc.* and receive none of the benefits of the Settlement”; (iii) the Class Member’s signature; and (iv) the name and signature of the Class Member’s attorney (if represented by one). In addition, if known to the Class Member, he or she will be asked to include in the opt out

request the following information: the model number(s) and/or serial numbers of the Class Panels; the date of purchase or installation of the Class Panels; and the number of Class Panels owned by the Class Member. For LNR Class Members, the opt-out period shall be determined pursuant to § III.C, *supra*. Except for those Class Members who have properly opted out, all Class Members will be deemed a Settlement Class Member for all purposes under this Agreement.

B. Any Class Member who elects to opt out of the Settlement Class (i) shall not be bound by any orders or judgments entered in this Action; (ii) shall not be entitled to relief under, or be affected by, this Agreement; (iii) shall not gain any rights by virtue of this Agreement; and (iv) shall not be entitled to object to any aspect of this Agreement. Any Class Member who has opted out and wishes to revoke his or her request to opt out may do so by mailing a letter to the ICA before the opt out deadline stating clearly the desire to revoke the previous opt out request.

C. The ICA shall provide Class Counsel and Defense Counsel with copies of all completed opt-out requests on a weekly basis during the opt-out period. No more than ten (10) business days following the deadline for Class Members to opt out, the ICA shall provide Class Counsel and Defense Counsel with a list of all opt-out requests received by the ICA, together with copies of any such requests not already provided to Class Counsel and Defense Counsel.

D. If the number of Class Members who timely exercise their right to opt out from the Settlement equals at least 300, then either Defendant may, at any time not more than twenty-three (23) days following Defendants' Representatives' receipt of the full list of all opt-out requests from the ICA, notify Class Counsel in writing that they believe that the settlement cannot achieve its purpose. In that event, this Agreement shall become null and void, the Plaintiffs may continue to prosecute the Action, and the Parties shall jointly request that the Court vacate any and all orders entered pursuant to this Agreement.

E. Class Members may serve written objections to the Settlement, or to Class Counsel's application for Attorneys' Fees and Expenses and Class Representative Stipends, at any time during the objection period. To be considered, any such objection must be mailed to the Clerk of the Court, counsel for both parties, and the ICA, by the objection deadline stated in the Notice, and, to allow verification that the objecting party is a Class Member, must include (i) the Class Member's full name, current address, telephone number, and the property location where the Class Panels are installed; (ii) statement under penalty of perjury that the objector is the current owner of the Class Panels; (iii) the date(s) of purchase and installation of the Class Panels; (iv) model numbers and/or serial numbers of the objector's Class Panels; (v) all of the Class Member's objections, the reasons therefore, and any and all supporting papers, including, without limitation, all briefs, written evidence, and declarations; (vi) a statement of whether the Class Member intends to appear at the Fairness Hearing (personally or through counsel); (vii) the Class Member's signature; and (viii) the name and signature of the Class Member's attorney (if represented by one). Class Members submitting objections who wish to appear at the Fairness Hearing and present their objections to the Court orally must include a written statement of intent to appear at the Fairness Hearing in the manner prescribed by the Notice.

F. The opt-out and objection periods shall remain open 87 days following the commencement of the notice program.

X. CLASS REPRESENTATIVES SERVICE AWARD

A. Class Counsel shall petition the Court for, and Defendants shall not oppose, a Service Award in an amount of \$7,500 to Plaintiffs Allagas, Mohrman, and Ray, and \$3,500 to Plaintiff Dickson, in recognition of their efforts on behalf of the Class. The Court's approval of any Service Award shall be separate from its determination of whether to approve the Settlement. In the event the Court approves the Settlement, but declines to approve a Service

Award in the amount requested by Class Counsel, the Settlement will nevertheless be binding on the Parties.

B. The Class Representative shall be entitled to payment of their Service Awards by Defendants within 15 business days following the Effective Date, to be credited against the Common Fund Trust Account for Plaintiffs Allagas, Mohrman, and Ray, and the Claims Made Trust Account for Plaintiff Dickson.

XI. PAYMENT OF ATTORNEYS' FEES AND COSTS

A. Subject to the Court's approval, BP agrees to pay Class Counsel's Court-approved fees and expenses up to a maximum of \$11.6 million. This includes \$600,000 in costs to be paid from the Common Fund Trust Account, \$9 million in attorneys' fees to be paid from the Common Fund Trust Account, and a separate \$2 million payment paid by BP through the Claims Made Trust Account (but shall not count towards the \$20 million cap).

B. In the event the Court approves the Settlement, but declines to award Class Counsel's fees and expenses in the amount requested by Class Counsel, the Settlement will nevertheless be binding on the Parties. The Parties negotiated and reached agreement on the Class Counsel's fees and expenses only after reaching agreement on all other material terms of the Agreement.

C. Class Counsel shall be entitled to payment of fees and expenses awarded by the Court, up to a maximum of \$11.6 million, from BP within 15 business days after the Effective Date, to be credited against the Common Fund Trust Account in the amount of \$9.6 million and against the Claims Made Trust Account in the amount of \$2 million, as described in Section XI.A.

XII. RELEASES

A. Release of Defendants. Upon the Effective Date, Plaintiffs, on behalf of

themselves and in their representative capacity on behalf of the Settlement Class, and each member of the Settlement Class who does not timely elect to be excluded from the Settlement in compliance with the “opt-out” provisions of § IX of this Agreement, together with their respective spouses, heirs, executors, administrators, representatives, agents, attorneys, subrogees, partners, assigns, successors and predecessors in interest, all of those acting or purporting to act on their behalf and all of those who could claim through them with respect to the subject matter of this Release (the “Releasing Parties”) shall conclusively be deemed to have fully, finally and forever released, relieved, remised, relinquished and discharged Defendants, together with each of their past, present and future representatives, officers, directors, agents, servants, employees, attorneys, assigns, successors and predecessors in interest, parents, subsidiaries, divisions, affiliates, shareholders, insurers, vendors and contractors and each of the heirs, executives, administrators, successors and assigns of each releasee described above (the “Released Parties”), of and from all causes of action, suits, legal or arbitral proceedings, claims or counterclaims, liabilities, controversies, demands or damages, in law or in equity, concerning, related to or arising from any Released Party’s conduct, policies, practices, actions or failures to act concerning, relating to, or arising from or described in the Conditional Third Amended Complaint, including but not limited to the design, manufacture, assembly, distribution, labeling, advertising, marketing, or sale of the Solar Panels or the handling of any claim, warranty, repair, replacement, or demand relating to any Solar Panel that the Releasing Parties ever had, now have, would or could have had, or may in the future have against the Released Parties, whether known or unknown, for, upon, or by reason of any matter, cause, or thing whatsoever, from the beginning of the world up to and including the Effective Date of this Agreement (the “Released Claims”). Upon the Effective Date, the Releasing Parties covenant and agree that they shall not hereafter commence any lawsuit or proceeding that seeks to establish liability against any

Released Party or any other person based, in whole or in part, on any of the Released Claims. Notwithstanding the foregoing, claims for personal injury and wrongful death shall be released only if they arise after the time when the Class Member has received one of the following Settlement benefits: (i) replacement of all remaining Class Panels included in the Class Member's PV system (or the removal of all remaining Class Panels accompanied by a monetary payment pursuant to section III(A)(5) above) or (ii) the installation on the Class Member's PV system of an inverter with arc-fault technology; otherwise, claims for personal injury and wrongful death shall not be included in the foregoing release. For any Class Member who owns Class Panels installed on more than one PV system, the foregoing sentence shall be applied separately for each PV system (*i.e.*, any claims for personal injury or wrongful death related to any PV system shall be released only if they arise after the time when the Class Member has received replacement of all Class Panels (or compensation), or installation of an arc fault inverter, for that PV system).

B. Waiver Under Section 1542 of the California Civil Code. Each Releasing Party hereby expressly waives, and is conclusively deemed to have waived, all rights under California Civil Code, Section 1542.

1. Section 1542 provides: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

2. Each Releasing Party further declares that they understand the full nature, extent, and import of Section 1542 of the California Civil Code and of this entire Agreement, and has sought and obtained the advice of counsel (or has had the opportunity to do so) with respect

to that statute and this Agreement. Each Releasing Party further waives, and is conclusively deemed to have waived, all rights under any other statutes and/or common law principles of similar effect arising in any jurisdiction.

3. Each Releasing Party understands that the facts which such Party believes to be true at the time of making these Releases may later turn out to be different than such Releasing Party now believes, and that information which is not now known or suspected may later be discovered. Each Releasing Party further understands that the consequence of this waiver is that even if such Party has injuries as of the date of this Agreement, but which such Releasing Party may not know exist, or if such Party should eventually suffer unanticipated additional damages or injuries arising out of the matters being released, such Releasing Party will not be able to assert any claims, counterclaims, or defenses based on any such unknown or unanticipated harm, injury, or damages regardless of whether that lack of knowledge or anticipation is the result of ignorance, oversight, error, negligence, or any other cause. Each Releasing Party accepts this possibility, assumes the risk of the facts turning out to be different or new information being discovered, and agrees that the release provided for herein shall in all respects continue to be effective and not subject to termination or rescission because of any difference in such facts or any new information. Each Releasing Party further represents that in connection with this Agreement and any release contained herein such Party has been represented by counsel which it has selected or has had the opportunity to be represented by such counsel, and that such Releasing Party is fully apprised of the consequences of its undertaking under this Paragraph. Each Releasing Party acknowledges and agrees that this waiver is an essential and material term of this Agreement, including the release and the settlement that leads to it, and without such waiver Defendants would not have entered into the Agreement.

4. Reviewed and agreed to:


Michael Allagas Michael Allagas
____ Arthur Ray
____ Brett Mohrman
____ Brian Dickson

C. Exclusive Jurisdiction. The Court shall have and continue to maintain exclusive jurisdiction to interpret the scope and substance of the release. In the event that a dispute arises in another court or tribunal regarding the scope or substance of any of the provisions of the Release, Class Counsel and BP shall cooperate to ensure that the Court issues any collateral orders or judgments required to maintain the validity of this Release and to ensure any such collateral orders or judgments are enforced to the fullest extent of the law in any other court, tribunal, or legal proceeding.

D. Further Representations and Warranties. The Releasing Parties further represent and warrant that it is their intent to release once and for all, any and all Released Claims under this Agreement to the fullest and broadest extent permitted by law. Notwithstanding any other language contained herein, this Release does not alter the existing rights of members of the Non-FDK+ or LNR Class Members under BP's applicable Warranty Certificate to the extent preserved pursuant to §§ III(B)(8) or III(C) of this Agreement.

E. In consideration of the terms of this Agreement, THD hereby releases any and all claims, demands, causes of action of any kind whatever, that concern, relate to, or arise from, any of BP's alleged conduct, policies, practices, action or failures to act alleged in any of the complaints filed by Plaintiffs in this Action. With respect to the foregoing, THD hereby waives any and all benefits from, and any right to rely upon, Section 1542 of the California Civil Code,

4 Reviewed and agreed to:


 Michael Allagas

 Arthur Ray

 Brett Mohrman

 Brian Dickson

C. Exclusive Jurisdiction. The Court shall have and continue to maintain exclusive jurisdiction to interpret the scope and substance of the release. In the event that a dispute arises in another court or tribunal regarding the scope or substance of any of the provisions of the Release, Class Counsel and BP shall cooperate to ensure that the Court issues any collateral orders or judgments required to maintain the validity of this Release and to ensure any such collateral orders or judgments are enforced to the fullest extent of the law in any other court, tribunal, or legal proceeding.

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E. In consideration of the terms of this Agreement, THD hereby releases any and all claims, demands, causes of action of any kind whatever, that concern, relate to, or arise from, any of BP's alleged conduct, policies, practices, action or failures to act alleged in any of the complaints filed by Plaintiffs in this Action. With respect to the foregoing, THD hereby waives any and all benefits from, and any right to rely upon, Section 1542 of the California Civil Code,

4. Reviewed and agreed to:

_____ Michael Allagas
_____ Arthur Ray
BSM Brett Mohrman
_____ Brian Dickson

C. Exclusive Jurisdiction. The Court shall have and continue to maintain exclusive jurisdiction to interpret the scope and substance of the release. In the event that a dispute arises in another court or tribunal regarding the scope or substance of any of the provisions of the Release, Class Counsel and BP shall cooperate to ensure that the Court issues any collateral orders or judgments required to maintain the validity of this Release and to ensure any such collateral orders or judgments are enforced to the fullest extent of the law in any other court, tribunal, or legal proceeding.

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E. In consideration of the terms of this Agreement, THD hereby releases any and all claims, demands, causes of action of any kind whatever, that concern, relate to, or arise from, any of BP's alleged conduct, policies, practices, action or failures to act alleged in any of the complaints filed by Plaintiffs in this Action. With respect to the foregoing, THD hereby waives any and all benefits from, and any right to rely upon, Section 1542 of the California Civil Code,

4. Reviewed and agreed to:

_____ Michael Allagas

_____ Arthur Ray

_____ Brett Mohrman

B.D. Brian Dickson

C. Exclusive Jurisdiction. The Court shall have and continue to maintain exclusive jurisdiction to interpret the scope and substance of the release. In the event that a dispute arises in another court or tribunal regarding the scope or substance of any of the provisions of the Release, Class Counsel and BP shall cooperate to ensure that the Court issues any collateral orders or judgments required to maintain the validity of this Release and to ensure any such collateral orders or judgments are enforced to the fullest extent of the law in any other court, tribunal, or legal proceeding.

D. Further Representations and Warranties. The Releasing Parties further represent and warrant that it is their intent to release once and for all, any and all Released Claims under this Agreement to the fullest and broadest extent permitted by law. Notwithstanding any other language contained herein, this Release does not alter the existing rights of members of the Non-FDK+ or LNR Class Members under BP's applicable Warranty Certificate to the extent preserved pursuant to §§ III(B)(8) or III(C) of this Agreement.

E. In consideration of the terms of this Agreement, THD hereby releases any and all claims, demands, causes of action of any kind whatever, that concern, relate to, or arise from, any of BP's alleged conduct, policies, practices, action or failures to act alleged in any of the

and any other law of the same effect in any jurisdiction. Notwithstanding the foregoing, THD shall retain all rights pursuant to Section 9.3 of the Program Agreement dated October 4, 2004 with respect to any future claims asserted by members of the Settlement Class and other claims brought by individuals not included in the Settlement Class, including those (1) who timely elect to opt out of the Settlement pursuant to § IX of this Agreement or (2) by virtue of rights possessed by Non-FDK+ Class Members or LNR Class Members under BP's applicable Warranty Certificate that are preserved pursuant to §§ III(B)(8) or III(C) of this Agreement.

XIII. NO ADMISSION OF LIABILITY

A. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties, either previously or in connection with the negotiations or proceedings connected with this Agreement, shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made or an acknowledgment or admission by any Party or person of any fault, liability or wrongdoing of any kind whatsoever to any other Party or person.

B. Neither the Agreement, nor any act performed or document executed pursuant to or in furtherance of the Agreement or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or invalidity of any claim made by the Settlement Class Members, Class Counsel or any other person, or of any wrongdoing or liability of the persons or entities released under this Agreement, or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the persons or entities released under this Agreement, in any proceeding in any court, administrative agency or other tribunal.

C. This Agreement is a settlement document and shall be inadmissible in evidence in any proceeding, except an action or proceeding to approve, interpret, or enforce this Agreement.

D. To the extent permitted by law, the Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of this Agreement.

XIV. MISCELLANEOUS PROVISIONS

A. Extensions of Time

Unless otherwise ordered by the Court, the Parties may jointly agree to reasonable extensions of time to carry out any of the provisions of this Agreement.

B. Parties' Authority

The respective signatories hereto hereby represent that they are fully authorized to enter into this Agreement and bind the respective Parties hereto to the terms and conditions hereof.

C. Integration

This Agreement, including exhibits, constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any party hereto, except as provided for herein.

D. Governing Law

The Agreement shall be construed in accordance with, and be governed by, the laws of California, without regard to the principles thereof regarding choice of law.

E. Gender and Plurals

As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others wherever the context so indicates.

F. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even

though all Parties do not sign the same counterparts.

G. Cooperation of Parties

The Parties agree to fully cooperate with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Agreement. The parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any efforts that become necessary by order of the Court, or otherwise, to effectuate this Agreement and the terms set forth herein. As soon as practicable after execution of this Agreement, Class Counsel shall take all necessary steps to assure the Court's final approval of this Agreement.

H. No Prior Assignments

Plaintiffs represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

I. Captions and Interpretations

Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provision hereof. Each term of this Agreement is contractual and not merely a recital.

J. Modification

This Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the parties hereto.

K. Binding on Assigns

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

L. Execution Voluntary

This Agreement is executed voluntarily by each of the Parties without any duress or undue influences on the part, or on behalf, of any of them. The Parties represent and warrant to each other that they have read and fully understand the provisions of this Agreement and have relied on the advice and representation of legal counsel of their own choosing. Each of the Parties has cooperated in the drafting and preparation of this Agreement and has been advised by counsel regarding the terms, effects, and consequences of this Agreement. Accordingly, in any construction to be made of this Agreement, this Agreement shall not be construed as having been drafted solely by any one or more of the Parties.

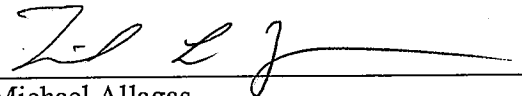
M. Notices

1. All Notices to Class Counsel shall be sent by email with a hard copy sent to each counsel by overnight mail. Class Counsel's email and mailing addresses are listed in § I.F., *supra*.

2. All Notices to Defendants shall be sent to Defendants' Representatives by email, with a hard copy sent by overnight mail. Defendants' Representatives' email and mailing addresses are listed in § I.G., *supra*. Defendants or BP shall have the right to designate different persons to serve as their representatives at any time, or to specify which of the designated representatives will take the lead on particular subject matters or decisions set forth in this Agreement to the Claims Protocol or that pertain to the Settlement, by providing five (5) business days prior written notice to Class Counsel, the ICA and the Special Master.

3. The Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filing received as a result of the Class Notice.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed on its behalf by its duly-authorized counsel of record, all as of the day set forth below.

Dated: 8-31-2016 
Michael Allagas

Dated: _____
Arthur Ray

Dated: _____
Brett Mohrman

Dated: _____
Brian Dickson

Dated: _____
LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

Robert J. Nelson
Class Counsel

Dated: _____
BIRKA-WHITE LAW OFFICES

David M. Birka-White
Class Counsel

Dated: _____
BP Solar International, Inc.

Name
Title

3. The Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filing received as a result of the Class Notice.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed on its behalf by its duly-authorized counsel of record, all as of the day set forth below.

Dated: _____

Michael Allagas

Dated: Aug 31-2016

Arthur Ray
Arthur Ray

Dated: _____

Brett Mohrman

Dated: _____

Brian Dickson

Dated: _____

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

Robert J. Nelson
Class Counsel

Dated: _____

BIRKA-WHITE LAW OFFICES

David M. Birka-White
Class Counsel

Dated: _____

BP Solar International, Inc.

Name
Title

3. The Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filing received as a result of the Class Notice.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed on its behalf by its duly-authorized counsel of record, all as of the day set forth below.

Dated: _____

Michael Allagas

Dated: _____

Arthur Ray

Dated: September 1st 2016



Brett Mohrman

Dated: _____

Brian Dickson

Dated: _____

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

Robert J. Nelson
Class Counsel

Dated: _____

BIRKA-WHITE LAW OFFICES

David M. Birka-White
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Michael Allagas


Dated: _____

Arthur Ray

Dated: _____

Brett Mohrman

Dated: 8-31-16



Brian Dickson

Dated: _____

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

Robert J. Nelson
Class Counsel

Dated: _____

BIRKA-WHITE LAW OFFICES

David M. Birka-White
Class Counsel

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Dated: _____

Arthur Ray

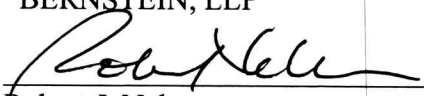
Dated: _____

Brett Mohrman

Dated: _____

Brian Dickson

Dated: September 1, 2016

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP


Robert J. Nelson
Class Counsel

Dated: _____

BIRKA-WHITE LAW OFFICES

David M. Birka-White
Class Counsel

Dated: _____

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Arthur Ray

Dated: _____

Brett Mohrman

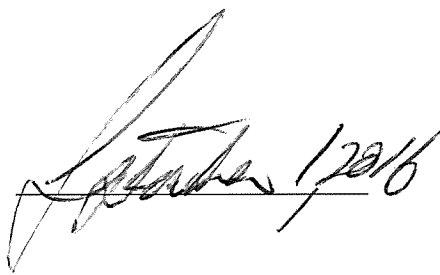
Dated: _____

Brian Dickson

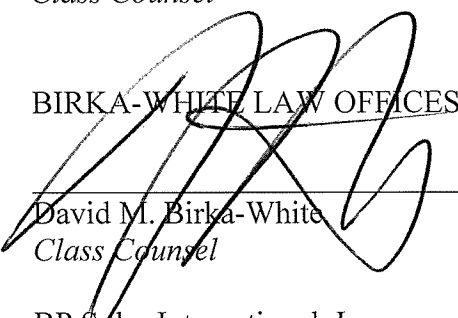
Dated: _____

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

Robert J. Nelson
Class Counsel

Dated:  1/29/16

BIRKA-WHITE LAW OFFICES



David M. Birka-White
Class Counsel

Dated: _____

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Name
Title

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Dated: _____ Michael Allagas

Dated: _____ Arthur Ray

Dated: _____ Brett Mohrman

Dated: _____ Brian Dickson

Dated: _____ LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

Robert J. Nelson
Class Counsel

Dated: _____ BIRKA-WHITE LAW OFFICES

David M. Birka-White
Class Counsel

Dated: _____ BP Solar International, Inc.


Name Laura Folse
Title President

Dated: 9-1-16

Home Depot U.S.A., Inc.

Karen Polyakou
Name KAREN POLYAKOU
Title ASST. GEN'L COUNSEL

Dated: _____

ARNOLD & PORTER LLP

Matthew T. Heartney
Counsel for Defendants


Dated: _____

Home Depot U.S.A., Inc.

Name
Title

Dated: 9/1/2016

ARNOLD & PORTER LLP



Matthew T. Heartney
Counsel for Defendants

EXHIBIT 1

EXHIBIT 1 - CLAIMS PROTOCOL

I. STATEMENT OF PURPOSE

A. This Claims Protocol (“Protocol”) accompanies and supplements the Settlement Agreement and Release (“Agreement”) executed by the Parties. In the event that a conflict or ambiguity in the construction or intent of any language, term or provision arises between this Protocol and the Agreement, the Agreement shall be controlling. This Protocol may only be modified by written agreement of all of the Parties and, after entry by the Court of a Preliminary Approval Order, any modification is subject to approval by the Court and/or Special Master.

B. Initial capitalized terms have the same definitions as in the Agreement or as otherwise set forth herein.

II. RESPONSIBILITIES OF THE INDEPENDENT CLAIMS ADMINISTRATOR

A. The Independent Claims Administrator (“ICA”) designated in § IV(A) of the Agreement shall be responsible for implementing the Common Fund and Claims Made Programs pursuant to the Agreement and this Protocol. If needed, the ICA may consult with Class Counsel and Defendants’ Representatives to obtain their input in answering any questions or clarifying the meaning of the Agreement or this Protocol and, if Class Counsel and Defendants’ Representatives are in agreement as to any matter, the ICA should act in accordance with their joint view unless doing so would be contrary to the terms of the Agreement or this Protocol.

B. The ICA shall prepare budgets and workplans that will be shared in advance of implementation with Class Counsel and Defendants’ Representatives, and shall perform its work in accordance with these documents. If subsequent events should require changes to the ICA’s budgets and/or workplans, the ICA shall notify Class Counsel and Defendants’ Representatives, and provide revised budget and workplan documents as promptly as feasible. In the event that

Class Counsel or Defendants' Representatives have concerns regarding any budget or workplan (or any revised budget or workplan) these shall be discussed jointly, and resolved, by the ICA, Class Counsel and Defendants' Representatives. If no resolution can be reached, the dispute may be referred to the Special Master pursuant to § V(A)(1) of the Agreement.

III. CLAIMS INTAKE AND PROCESSING

A. All claims for any relief under the Settlement ("Claims") shall be made by a Class Member or by that Class Member's legal representative. Legal representatives are those with a power of attorney or who have been designated as a conservator and/or guardian of the Class Member, or who serve in the capacity as the property manager for a property at which Class Panels are installed. No Claims shall be accepted from third party administrators or other entities or individuals that submit claims for a fee. If there should be more than one person claiming an interest in any Class Panels, the election or apportionment of any relief claimed under the Settlement shall be made by agreement among all persons claiming such an interest or, if necessary, by the ICA, whose decision may be appealed to the Special Master pursuant to § V(2) of the Agreement.

B. To obtain relief from the Common Fund or the Claims Made Program, persons submitting a Claim ("Claimants") must timely submit to the ICA a fully filled out claim form in substantially the form of Exhibit 2 of the Agreement (each, a "Claim Form"), which either provides all information requested by the Claim Form or, if certain information is not available, states this fact, and is signed by the Claimant under penalty of perjury. The ICA will accept Claim Forms via the Settlement website or by email, mail or fax and will confirm receipt of a Claim Form to the person submitting the Claim. To the extent possible, the ICA will process Claims in the order received. Priority may be given to Claims with circumstances requiring immediate attention, for example, homes in escrow or pending a sale.

C. The ICA shall review each Claim Form as promptly as reasonably feasible and shall advise the Claimant in writing of any respects in which the Claim Form does not comply with the Agreement or this Protocol. The Claimant must address these deficiencies within 30 days of the date of the notification by the ICA. If the ICA receives no response or a further insufficient response from the Claimant within 35 days, the ICA shall send a second notice advising that the claim is subject to suspension, together with the Long Form Notice and a package of additional information describing the benefits offered by the Settlement and how to access them (in a form to be prepared by the ICA and approved by the Parties). If the ICA receives no response or a further insufficient response within 35 days of the second notice, the Claim shall be suspended. The Claim may be reopened upon submission by the Claimant of the documentation or information required to address the deficiencies identified by the ICA provided it is otherwise timely under the terms of the Agreement.

D. Once a Claim Form is accepted for processing, the ICA shall review the information submitted to confirm the Claimant's membership in the Settlement Class, as follows:

1. If the information submitted to the ICA (including any supplementary information provided pursuant to § III(C) above) demonstrates that the Claimant is not a member of the Settlement Class (for example, because the Claimant does not have BP panels or the panels owned by the Claimant are not included in the definition of Class Panels), the ICA shall issue a Notice of Claim Decision denying the Claim (provided that this and all other Notices of Claim Decision called for by this Protocol shall be in a form prepared by the ICA and approved by the Parties).

2. If the information submitted to the ICA demonstrates that the Claimant is a member of the Settlement Class and is not an LNR Class Member, the ICA shall dispatch an

Approved Inspector to perform an initial inspection (“Initial Inspection”) of the Claimant’s Class Panels. For purposes of this subparagraph, the information provided by the Claimant need not demonstrate unequivocally that the solar panels installed in the Claimant’s PV system are Class Panels in order for the Claimant to receive an Initial Inspection. Rather, provided that all other requirements of Settlement Class membership are shown, the ICA shall arrange an Initial Inspection if the information provided indicates it is likely that the Claimant may possess Class Panels. If the information provided by the Claimant does not indicate that it is likely that the Claimant may possess Class Panels, the ICA shall issue a Notice of Claim Decision denying the Claim.

E. If at any time the ICA determines that a Claimant is a LNR Class Member, the ICA shall issue a Notice of Claim Decision inviting the Claimant to enter into commercial negotiations with BP as provided in the Agreement § III(C)(1).

F. Prior to an Initial Inspection, the ICA shall provide the Approved Inspector with available relevant information concerning the Claimant, including information regarding past warranty claims for Class Panels installed at the Claimant’s property. The Approved Inspector shall visit the Claimant’s property, conduct an inspection of the Class Panels installed there, complete an Inspection Form (in a form prepared by the ICA and approved by the Parties), and obtain photographs documenting the inspection. The Initial Inspection will include the following:

1. Determine whether and how many solar panels in the PV system meet the definition of Class Panels, and if so, whether they are FDK+ or Non-FDK+ Panels. The inspector shall attach to the Inspection Form photographs or other documentation sufficient to support this determination. If feasible, the inspector shall record the fifteen digit serial number

located on the backsheet of each Class Panel, and shall obtain a photograph of the backsheet label of each Class Panel that is sufficient to legibly read this number. For any Class Panel for which the foregoing is not feasible, the inspector shall record the seven digit number from the barcode label on the front of the panel and obtain a photograph of the barcode label that is sufficient to legibly read this number. If the inspector is not able to obtain the information required by the prior two sentences, he/she shall consult with the ICA to determine what other panel identification information should be obtained before leaving the premises. (If the solar panels are not Class Panels, the inspection shall end and the inspector need not complete the remainder of the Inspection Form.)

2. If the Class Panels in the PV system include both FDK+ and Non-FDK+ Panels, determine whether the number of FDK+ Panels makes up more than 50 percent of the total panels in the system, and record the number of FDK+ Panels, the number of Non-FDK+ Panels, and the number of any other panels.

3. Determine whether the PV system is roof mounted or ground mounted and whether the Class Panels are installed above non-flammable materials (either fire-rated roofing, cement, asphalt paving or the like), and document these determinations with photographs.

4. If the PV system is roof mounted, determine the pitch of the roof and the number of stories above ground level.

5. Document through photographs (a) any special conditions such as lack of access, special landscaping, or other considerations that could affect remediation work (b) trees, structures or other conditions creating shading on the PV array during operation and (c) the existence of O/M issues affecting system operations, such as failure to clean modules or poor cable management.

6. If the PV system includes Non-FDK+ Panels:

- a. Conduct a visual inspection of these panels to identify any Failed Panels (as defined below in Section IV), and record the fifteen digit serial number or the seven digit barcode number of each Failed Panel.
- b. Document the inspection of all Non-FDK+ Panels fully with photographs.
- c. Make a preliminary determination whether the cumulative Junction Box Failure rate of the Non-FDK+ Panels installed in the PV system, inclusive of past Non-FDK+ Failed Panels, exceeds 20 percent.
- d. Determine whether the system has an arc fault detection system and, if so, what it consists of.

G. After the Initial Inspection, the ICA shall issue a Notice of Claim Decision either denying or approving the Claim. If the Claim is denied, the Notice shall explain the reasons for the denial. If the Claim is approved, the Notice shall explain the benefits that will be provided to the Class Member under the Settlement, and appropriate directions and instructions for coordination and timing of those benefits. All Notices of Claim Decisions issued by the ICA shall identify any Class Panels that are to be replaced under the Settlement by their fifteen digit serial number, the seven digit barcode number, or other means sufficient to uniquely identify each Panel.

IV. IDENTIFICATION OF FAILED NON-FDK+ PANELS

A. Approved Inspectors conducting an inspection of Non-FDK+ Panels under § III(F)(6) of this Protocol shall apply the following criteria to determine whether any such Panel qualifies as a Failed Panel. A Failed Panel consists of a Non-FDK+ Panel for which the cable-to-busbar solder joint inside the junction box has failed as determined by a visual inspection of

the front and/or back of the Class Panel immediately adjacent to the junction box, including the junction box itself.

B. Any of the following conditions shall be sufficient to establish that a Non-FDK+ Panel is a Failed Panel.

1. On the front of the Non FDK+ Panel, visible damage resulting from excessive heat inside or adjacent to the junction box area, documented by detailed photographs, consisting of:

- a. Burn marks (i.e., caused by excessive heat) that originate immediately above or adjacent to the junction box; or
- b. Glass breakage or cracking caused by excessive heat that originate immediately above or adjacent to the junction box.

2. On the back of the Non FDK+ Panel, visual damage resulting from excessive heat inside or adjacent to the junction box area, documented by detailed photographs, consisting of:

- a. Overheating, melting or burning of the junction box;
- b. Burn marks (i.e., caused by excessive heat) that originate at or adjacent to the junction box; or
- c. Separation of the output cable from the junction box if there is evidence of excessive heating inside the junction box or the cable end.

C. The following conditions shall not, by themselves, establish that a Non-FDK+ Panel is a Failed Panel.

1. Discoloration on the front or back of the Non FDK+ Panel that did not result from excessive heating or that did not originate from the junction box, including yellowing/browning of epoxy/potant used to fill the junction box, excessive epoxy/potant on the

outside of the junction box, uncured epoxy/potant leaking from the junction box or excessive or missing RTV.

2. Glass breakage or cracking not caused by excessive heating or that did not originate from the junction box, including breakage or cracking caused on physical impacts.

3. Missing junction box parts.

4. Cosmetic defects associated with the junction box (e.g., excessive epoxy/potant on the outside of the junction box).

5. Separation of the output cable from the junction box where there is no evidence of excessive heating inside the junction or at the cable end.

D. Approved Inspectors shall be furnished with exemplar photographs agreed to by both Class Counsel and Defendants' Representatives that illustrate the conditions referenced above.

V. DISTRIBUTION AND COORDINATION OF SETTLEMENT BENEFITS

A. FDK+ Class Members

1. If a Notice of Claim Decision issued by the ICA confirms that a Claimant has FDK+ Panels, and subject to the procedure to review such decisions set forth in the Agreement and this Protocol, the ICA shall engage an Approved Remediation Contractor to provide the relief called for by the Notice of Claim Decision. If the Claimant is also entitled to relief under the Claims Made Program at the same location, the ICA will coordinate the relief provided under the Common Fund with the relief provided under the Claims Made Program to ensure efficiency and avoid unnecessary costs.

2. Before visiting the Claimant's property, the Approved Remediation Contractor shall determine, in consultation with the ICA, whether obtaining any permits or installing a new inverter is required by any regulation, ordinance or other requirement having the

force of law promulgated by the Authority Having Jurisdiction (“AHJ”) or by a tariff or other legal requirement imposed by the utility to which the PV system is connected in order to perform the relief provided in the Notice of Claims Decision, including identifying the specific requirement in question and the source of this requirement.

3. When visiting the Claimant’s property, the Approved Remediation Contractor shall remove all Class Panels that are to be replaced and confirm, using the identification information provided in the Notice of Claim Decision, that all such Class Panels have been recovered. If any Class Panels required to be replaced under the Notice of Claim Decision have not been recovered, the Approved Remediation Contractor shall obtain the missing Class Panels from the Claimant before completing the replacement work. If the Approved Remediation Contractor is not able to recover all Class Panels that are to be replaced, he/she shall consult with the ICA. Once all Class Panels that are to be replaced have been recovered, the Approved Remediation Contractor shall complete the relief provided in the Notice of Claims Decision.

4. Per § III(A)(1) of the Agreement, the cost of implementing the relief approved through a Notice of Claim Decision with respect to FDK+ Panels will be paid from the Common Fund Trust Account. The ICA shall be responsible for recording, in a readable electronic format, the 15 digit serial number or seven digit barcode number for all Class Panels recovered as part of the Common Fund program.

5. Notwithstanding the foregoing, as provided in § III(A)(5) of the Agreement, an FDK+ Class Member may choose to retain his/her own contractor for the replacement work (or to forego replacing the Class Panels) but all Class Panel removal and disposal shall be performed by an Approved Remediation Contractor under the direction of the

ICA. In any Notice of Claim Decision that notified an FDK+ Class Member that he/she is entitled to replacement of FDK+ Panels, the ICA shall explain the availability of this option and its terms.

6. The ICA shall implement the terms of the Agreement and this Protocol as efficiently as possible, and shall make all reasonable efforts not to exceed an average of \$2.35 per watt for the removal, replacement, and disposal of the Class Panels contemplated by the Agreement and this Protocol, including but not limited to material and labor costs for removal of Class Panels and installation of replacement panels. The ICA shall have the discretion to pay the Approved Remediation Contractor up to 50% of the total cost for removal, replacement, and disposal of the Class Panels upon the Approved Remediation Contractor's pulling of any required permits, and shall have the authority to pay the remaining amount after all panels being replaced (including but not limited to Class Panels) have been collected by or delivered to a qualified waste disposal facility. The transportation and disposal of the panels must comply with all laws. In no event shall payment in full be made to the Approved Remediation Contractor until such time as the ICA has confirmed that all panels being replaced have been collected by or delivered to a qualified waste disposal facility.

B. **Non-FDK+ Class Members**

1. If a Notice of Claim Decision issued by the ICA confirms that a Claimant has Non-FDK+ Panels, and subject to the procedure to review such decisions set forth in the Agreement and this Protocol, the ICA shall engage an Approved Remediation Contractor to provide the relief called for by the Notice of Claim Decision. As part of its engagement of the Approved Remediation Contractor, the ICA will ensure that the cost incurred for the removal, replacement, and disposal of the Non-FDK+ Panels from any Claimant's PV system shall not

exceed \$2.35 per watt as provided in section III(B)(6) of the Agreement. The ICA shall have the discretion to pay the Approved Remediation Contractor up to 50% of the total cost for removal, replacement, and disposal of the Class Panels upon the Approved Remediation Contractor's pulling of any required permits, and shall have the authority to pay the remaining amount after all panels being replaced (including but not limited to Class Panels) have been collected by or delivered to a qualified waste disposal facility. The transportation and disposal of the panels must comply with all laws. In no event shall payment in full be made to the Approved Remediation Contractor until such time as the ICA has confirmed that all panels being replaced have been collected by or delivered to a qualified waste disposal facility.

2. Before visiting the Claimant's property, the Approved Remediation Contractor shall determine, in consultation with the ICA, whether obtaining any permits or installing a new inverter is required by any regulation, ordinance or other requirement having the force of law promulgated by the AHJ or by a tariff or other legal requirement imposed by the utility to which the PV system is connected in order to perform the relief provided in the Notice of Claims Decision, including identifying the specific requirement in question and the source of this requirement.

3. While visiting the Claimant's property, the Approved Remediation Contractor shall remove all Class Panels that are to be replaced and confirm, using the identification information provided in the Notice of Claim Decision, that all such Class Panels have been recovered. If any Class Panels required to be replaced under the Notice of Claim Decision have not been recovered, the Approved Remediation Contractor shall obtain the missing Class Panels from the Claimant before completing the replacement work. If the Approved Remediation Contractor is not able to recovery all Class Panels that are to be replaced,

he/she shall consult with the ICA. Once all Class Panels that are to be replaced have been recovered, the Approved Remediation Contractor shall complete the relief provided in the Notice of Claims Decision.

4. Notwithstanding the foregoing, as provided in § III(B)(7) of the Agreement, a Non-FDK+ Class Member may choose to retain his/her own contractor for the replacement work (or to forego replacing the Class Panels) but all Class Panel removal and disposal shall be performed by an Approved Remediation Contractor under the direction of the ICA. In any Notice of Claim Decision that notified a Non-FDK+ Class Member that he/she is entitled to replacement of Non-FDK+ Panels, the ICA shall explain the availability of this option and its terms. Notwithstanding the foregoing, as set forth in § III(B)(7) of the Agreement, when Non-FDK+ Class Members qualify to receive an Approved Inverter as part of the Claims Made Program, this work shall be performed by the ICA only, without any option for Non-FDK+ Class Members to retain their own contractor or to forego installing an Approved Inverter in order to receive monetary compensation.

5. When any Subsequent Claims are submitted under the Claims Made Program, per § III(B)(5) of the Agreement, the ICA shall approve or deny the Subsequent Claim following the procedures set forth in sections IV and V above. Initially, the ICA shall evaluate the information provided by the Claimant and, if this information indicates that there likely exist one or more additional Failed Panels not included in any past Claim, the ICA shall dispatch an Approved Inspector to conduct a Subsequent Inspection to determine whether this is so. If that inspection confirms the existence of additional Failed Panels, the ICA shall issue a Notice of Claim Decision approving the Claim in a manner consistent with the findings of the Subsequent Inspection and, subject to the procedure to review such decisions set forth in the Agreement and

this Protocol, shall engage an Approved Remediation Contractor to provide the relief called for by the Notice of Claim Decision. If the ICA determines that the information provided by the Claimant (including any supplementary information provided pursuant to § III(C) above) does not sufficiently indicate that additional Failed Panels are present or if the Subsequent Inspection does not confirm the existence of additional Failed Panels, the ICA shall issue a Notice of Claim Decision denying the Claim.

6. Per § III(B)(1) of the Agreement, the cost of implementing the relief approved through a Notice of Claim Decision with respect to Non-FDK+ Panels will be paid from the Claims Made Trust Account. The ICA shall be responsible for recording, in a readable electronic format, the 15 digit serial number or seven digit barcode number for all Class Panels recovered as part of the Claims Made Program.

C. The ICA shall exercise due care in taking all necessary, customary and appropriate actions to prevent fraud and abuse in the distribution of benefits called for by the Settlement. Any Notice of Claim Decision that awards relief under the Settlement shall include language informing the Claimant that, if facts are subsequently discovered demonstrating that the decision to award relief was influenced by any material misrepresentation of fact or any material omission of fact that the Claimant was under an obligation to disclose, the ICA with respect to relief provided by the Common Fund, or BP with respect to relief provided under the Claims Made Program, may seek recovery of the costs incurred to provide the relief in question.

VI. DISPUTED CLAIM DECISIONS

A. Prior to issuing any Notice of Claim Decision granting relief under the Common Fund or Claims Made Program, the ICA shall forward its proposed decision to Class Counsel and Defendants' Representatives ("Proposed Decision"), who shall then have seven (7) business days to lodge any objection or question with the ICA in writing, with a copy to the other side. If

an objection or question is timely lodged with the ICA, the Proposed Decision shall be discussed between the ICA and the objecting counsel (with counsel for the other side invited to participate), and the ICA shall issue its final decision (“ICA Decision”) within five (5) business days thereafter. Otherwise, the Proposed Decision shall become a Notice of Claim Decision, and may be issued to the Claimant with copies to Class Counsel and Defendants’ Representatives.

B. With respect to an ICA Decision issued after an objection or question lodged by Defendants’ Representatives, either Class Counsel or Defendants’ Representatives may submit that Decision to the Special Master for review within ten (10) business days after its issuance through a written objection that is copied to the other side. Notwithstanding the foregoing, to the extent that a Decision concerns FDK+ Panels only, this right of review shall be limited to Decisions that (1) were rendered within 120 days following the Effective Date or (2) involve an interpretation or application of the Settlement Agreement or this Protocol that may affect how the Settlement is applied to the claims of a significant number of other Class Members. Absent a timely objection from Class Counsel or Defendants’ Representatives, the ICA Decision shall become a Notice of Claim Decision, and may be issued to the Claimant with copies to Class Counsel and Defendants’ Representatives.

C. Where the ICA Decision is submitted to the Special Master, his review shall be conducted pursuant to § V(A) of the Agreement. After the Special Master’s ruling is issued (and, if applicable, any petition to the District Court for review under § V(B) of the Agreement has been resolved), the resulting decision shall become a Notice of Claim Decision, and may be issued to the Claimant with copies to Class Counsel and Defendants’ Representatives.

D. A Claimant receiving a Notice of Claim Decision shall have 10 days following

the date of the Notice to object to the decision (“Claim Objection”). Such objection shall be made in writing, and may include such supporting documents and materials as the objecting party may choose to offer. The ICA shall promptly provide copies of any Claim Objection to Class Counsel and Defendants’ Representatives and shall attempt to resolve the Claim Objection through communications with the Claimant Class Counsel and Defendants’ Representatives. The ICA may consider any new information provided by the Claimant following the Claim Objection and, in this event, shall have the discretion to resolve the Claim Objection without consulting with Class Counsel or Defendants’ Representatives. If the ICA is not able to resolve the Claim Objection, either the Claimant (acting on his or her own behalf or through Class Counsel) or Defendants’ Representatives may submit the disputed matter to the Special Master as provided in § V(A)(2) of the Agreement.

VII. APPROVED INSPECTORS AND REMEDIATION CONTRACTORS

A. Selection of Approved Inspectors and Remediation Contractors.

1. Approved Inspectors may perform Initial or Subsequent Inspections pursuant to §§ III and IV of this Protocol. Not later than 30 days following the Effective Date, the ICA shall request approval from Defendants’ Representatives and Class Counsel for the inspection contractors it wishes to utilize in implementing the Settlement, and provide to Defendants’ Representatives and to Class Counsel a listing of such contractors, the service areas that each may be called upon to service, their qualifications and experience to conduct the needed inspections and such other information as BP shall specify. Exhibit 1A hereto sets forth qualifications to be applied in the selection of inspection contractors, provided that this Exhibit may subsequently be amended pursuant to agreement among the ICA and the Parties. If Defendants’ Representatives or Class Counsel believes that additional information is needed to evaluate the proposed inspection contractors, they may request such information from the ICA;

in the case of inspection contractors with which Defendants' Representatives or Class Counsel is not familiar, Defendants' Representatives or Class Counsel may conduct interviews of the employees expected to conduct the work required by the Settlement, by telephone or in person. If Defendants' Representatives or Class Counsel do not object to the proposed inspector in writing within fifteen (15) business days, that inspector shall be deemed approved.

2. Approved Remediation Contractors may perform panel replacements and inverter installations pursuant to § V of this Protocol. Not later than 30 days following the Effective Date, the ICA shall request approval from Defendants' Representatives and Class Counsel for the remediation contractors it wishes to utilize in implementing the Settlement, and provide to Defendants' Representatives and to Class Counsel a listing of such contractors, the service areas that each may be called upon to service, their qualifications and experience to conduct the needed inspections and such other information as BP shall specify. Exhibit 1B hereto sets forth qualifications to be applied in the selection of inspection contractors, provided that this Exhibit may subsequently be amended pursuant to agreement among the ICA and the Parties. If Defendants' Representatives or Class Counsel believes that additional information is needed to evaluate the proposed remediation contractors, they may request such information from the ICA; in the case of remediation contractors with which Defendants' Representatives or Class Counsel is not familiar, Defendants' Representatives or Class Counsel may conduct interviews of the employees expected to conduct the work required by the Settlement, by telephone or in person. If Defendants' Representatives or Class Counsel do not object to the proposed contractor in writing within fifteen (15) business days, that contractor shall be deemed approved.

3. All Approved Inspectors and Approved Remediation Contractors must

possess, and maintain in effect at all times, all required licenses, permits, approvals required by the jurisdictions in which their work will be performed, and must ensure that all individuals serving as inspectors or contractors as part of the work performed by them with respect to the Settlement possess any necessary licenses, permits or approvals required by the jurisdictions in which those individuals' work will be performed. No Approved Inspector or Approved Remediation Contractor, or any person employed by them for purposes of work pursuant to the Agreement, may have been designated as an expert in the *Allagas* case by any party to that matter. If, at any time, the ICA learns that an Approved Inspector or Approved Remedial Contractor is not in compliance with the requirements set forth herein, including the qualifications mandated by Exhibits 1A or 1B, or performs work falling below minimum accepted levels of quality, timeliness or efficiency, the ICA shall require that all such deficiencies be remedied forthwith, including adopting such remedial steps as will reasonably ensure that no such deficiencies recur in the future. Should any inspector or remediation contractor fail to comply with the remedial steps required under the foregoing sentence, they may no longer be utilized for work pursuant to the Agreement.

4. The ICA shall select an Approved Remediation Contractor for a given job based on, among other things, geographical location and availability. Work performed by any Approved Remediation Contractor will be subject to its standard warranty for labor and materials, which shall meet minimum requirements established by the ICA. Each Approved Remedial Contractor shall execute material and labor releases prior to performing any work pursuant to the Agreement.

5. The ICA shall ensure all Approved Remediation Contractors agree to the scope of work and payment terms prior to accepting a job. The ICA shall communicate the

standard, non-negotiable payment rate to the Approved Remediation Contractor, depending on the complexity of the job, prior to commencing a job. The Approved Remediation Contractor will secure any permits required by the AHJ. A copy of the permit and, if requested, a copy of the approved plans shall be forwarded to the ICA prior to commencing a job.

6. Upon completing a job, an Approved Inspector or Approved Remediation Contractor shall submit to the ICA a completed job form in a form prepared by the ICA and approved by the Parties (each, a “Job Form”). In the case of a job performed by an Approved Remediation Contractor, the Job Form shall be signed by the Contractor and Class Member, and shall confirm that the job has been satisfactorily completed.

7. Upon receipt of a completed Job Form, and if the ICA receives no Class Member complaints within 7 days of receipt of the form, the ICA shall pay the Approved Inspector or Approved Remediation Contractor for their work consistent with the provisions in §§ V(A) and V(B) above. If a complaint is received within the 7-day period, the ICA shall determine the precise timing and amount of payment taking into account the nature of the complaint, any proposed resolution of the complaint, the inspector or contractor’s track record, and any other factors the ICA deems appropriate. Notwithstanding the foregoing, payment in full may not be provided to any Approved Remediation Contractor that is not in compliance with the last sentence of § V(B)(1) of this Protocol.

8. The procedures set forth in §§ VII(A)(4) through (7) above may be revised or expanded following the Effective Date upon recommendation by the ICA approved by the Parties.

B. **Selection of Approved Inverters with Arc Fault Detection Technology.** The ICA shall be responsible for selecting the makes and models of inverters with arc fault detection

technology that will be installed as part of the Claim Made Program after consultation with an expert selected by Defendants, and an expert selected by Plaintiffs. Currently, Defendants have selected Raymond Hudson, and Plaintiffs have selected Bill Brooks, to serve as these experts; subsequently, either Defendants or Plaintiffs may designate replacement experts. Such inverters shall be selected after consideration of the effectiveness and reliability of their arc fault detection technology and their cost in relation to other comparable products.

VIII. PAYMENT OF THE ICA

A. The ICA will submit monthly invoices to Class Counsel for payment of administration costs. The ICA shall separately submit the invoices for the Common Fund Trust Account and the Claims Made Trust Account. Invoices submitted to Class Counsel shall be provided simultaneously to Defendants' Representatives. If Defendants dispute an invoice, they shall notify the ICA within fifteen (15) business days of receipt, otherwise the invoice shall be deemed approved. Class Counsel will review all invoices and approve for payment as appropriate. Any disputes regarding payment of invoices, if not resolved internally among the parties involved, shall be submitted for final determination by the Special Master pursuant to Section V of the Agreement.

B. The ICA shall prepare and provide to Class Counsel and Defendants' Representatives monthly accountings showing all receipts and disbursements made. Defendants' Representatives or Class Counsel may request that the ICA revise or supplement its invoices and supporting document and its monthly accountings to provide additional information or to report the information provided in an additional format, and any reasonable requests of this kind shall be accepted and implemented by the ICA.

IX. RECORDS MANAGEMENT

A. The ICA shall maintain complete and accurate records regarding the

administration of the Settlement Agreement and this Protocol, including but not limited to Claim Forms and supporting documentation, Inspection Forms, Notices of Claim Decision, Objections, Special Master rulings, completed Job Forms, invoices, payment documentation, and any other documents specified in the Settlement Agreement or this Protocol. The ICA shall make such records available to Class Counsel and Defendants' Representatives upon reasonable request. The ICA shall maintain all records for a period of not less than 5 years following the date of the last payment of a claim, the cost of which shall be reimbursed equally by the Common Fund Trust Account and the Claims Made Trust Account. Thereafter, all records shall be destroyed unless Class Counsel, Defendants' Representatives, and/or the Court otherwise directs. Defendants' Representatives or Class Counsel may request that the ICA's recordkeeping be revised or supplemented, and any reasonable requests of this kind shall be accepted and implemented by the ICA.

X. CLAIMS REPORTING

A. The ICA will submit written status reports jointly to Defendants's Representatives and Class Counsel on a monthly basis or a greater interval if mutually agreed upon. The status reports shall include, but shall not be limited to, the name and address of each Class Member who submits a claim, which types of Class Panels the Class Member has, whether the Class Member is a LNR Class Member, and the status of the Class Member's claim. The ICA shall also prepare an Annual Report to Class Counsel and Defendants' Representatives that summarizes this same information. The ICA shall prepare a database summary of all claims to facilitate claims tracking and reporting. Defendants' Representatives or Class Counsel may request that the ICA's claims reporting be revised or supplemented, and any reasonable requests of this kind shall be accepted and implemented by the ICA.

EXHIBIT 2

A. CLAIMANT AND PROPERTY INFORMATION

(A separate claim form is required for each property where BP solar panels are installed.)

Name of Claimant: _____

Mailing Address: _____
Street City State Zip

Telephone: _____ E-mail: _____

Property address where BP solar panels are installed:

Street City State Zip

1. Are you the current owner(s) of the property listed above? Yes No
(Note: Proof of ownership must be submitted with your claim form. Acceptable documentation includes, but is not limited to, the following: Property tax bill, grant deed, etc.)

2. Are you the current owner of the BP solar panels installed on the property?
Yes No

If yes, please check one of the following:

- First Purchaser of the solar panels.
- Current owner of the property on which the solar panels were first installed.
- All of the above.
- Other - Please explain: _____

3. Are there any other persons who own an interest in your solar panels or claim such an interest? Yes No

If yes, please explain and include any identification/contact information for the other persons: _____

4. Are you submitting this claim form on behalf of a business entity or other form of common ownership? Yes No

If yes, please provide proof that the business entity owns the BP solar panels for which this claim is made. Examples of acceptable proof may include a copy of title, deed corporate bylaws, Covenants, Codes, and Restrictions (CC&R's), or other governing documents that indicate the business entity owns or is responsible for the maintenance of the BP Solar panels.

B. SOLAR PANEL INFORMATION

1. Do you have documentation related to the purchase of the BP solar panels?
Yes No

If yes, please submit this documentation with this completed Claim Form. If available, include any documentation that shows the date of purchase, model number, and/or serial numbers.

2. How many BP solar panels are currently on your property? _____
(Note: If possible, please submit a photograph of the solar system with a current date stamp.)
3. BP solar panel model number(s), if known: _____
4. Have you had any repairs, modifications or movement of the system and/or components?
Yes No

If Yes, please describe and include relevant dates:

5. Have any events occurred which impacted your system and/or components (examples include but are not limited to: Hail, Power Surges, Flood)? Yes No

If Yes, please describe and include relevant dates::

C. INSTALLATION INFORMATION

1. When were the BP solar panels installed on the property, if known:

2. Is your solar system a residential or non-residential installation? Please check one:
 Residential Commercial Other _____
3. Is your solar system installed on your roof or is it ground mounted?
 Roof Ground
4. If roof mounted, what type of roofing material is used, if known?

5. If roof mounted, how many stories is the building structure where the BP solar panels are installed, if known? _____
6. Installer (Company), if known: _____
Installer Address: _____
Telephone: _____ E-mail: _____

D. PRIOR WARRANTY CLAIMS

1. Have you previously submitted a warranty claim to BP for any of the solar panels?
Yes No
- If yes, please provide the case number and approximate date of the claim, if known:
(The case number is a four to six digit number that you received from BP Solar when you submitted your previous warranty claim.)
- Case number: _____ Date: _____
Case number: _____ Date: _____
2. Were any of the modules replaced previously under BP's warranty program?
Yes No If yes, how many? _____

E. SETTLEMENT BENEFITS

Category 1: If it is determined that you are entitled to replacement of all or some of your Class Panels, please indicate a preference from the options below.

- Option 1:** Have an approved contractor selected by the Claims Administrator remove and replace the Class Panels.
- Option 2:** Have an approved contractor selected by the Claims Administrator remove and dispose of the Class Panels and receive a cash payment of \$2.35 per watt, less removal and disposal costs, which may be used to hire your own contractor to replace

the Class Panels.

Category 2: If it is determined that you are not entitled to full replacement, but have Class Panels currently installed, you will receive a free visual inspection, replacement of failed Class Panels, and/or a new inverter with arc fault detection as set forth in the Settlement Agreement which is available online at www.BPSolarSettlement.com.

F. CERTIFICATION

I/we declare, under penalty of perjury under the laws of the United States of America, that the information in, and submitted with, this Claim Form is true and correct to the best of my/our knowledge and belief. I/we authorize the Claims Administrator to contact anyone else who may have supplied information or documentation about this claim, such as contractors, material suppliers, or declarants.

Signature of Claimant/Legal Representative

Date

Signature of Claimant/Legal Representative

Date

If you are the Legal Representative, please complete the following and include any documentation showing your relationship to the Claimant:

Name

Relationship

Submit this completed Claim Form along with your supporting documents, if any, using one of the following methods:

By Mail: [Insert]

By Internet: www.BPSolarSettlement.com

By E-mail: CSR@bpsolarsettlement.com

By Facsimile: [Insert]

If you have any questions, please call [Toll-Free Number] or visit www.BPSolarSettlement.com.