

**PG&E/SVTC SOLAR, INC. CONFIDENTIAL**

**TERM SHEET  
FOR SERIES B REDEEMABLE PREFERRED STOCK FINANCING OF  
SVTC SOLAR, INC.  
JUNE 1, 2011**

This term sheet (“**Term Sheet**”) summarizes the proposed agreement between the Investor (as defined below) and SVTC Solar, Inc., a Delaware corporation (the “**Company**”) regarding the principal terms of the Series B Redeemable Preferred Stock financing of the Company.

This document is not intended to be a binding agreement between the Investor and the Company with respect to the subject matter hereof. No legally binding obligations will be created until definitive agreements are executed and delivered by all parties. This Term Sheet is not a commitment to invest nor is it a commitment to sell shares and is conditioned on the completion of due diligence, legal review, and documentation that is satisfactory to the Investor and the Company. This Term Sheet shall be governed in all respects by the laws of the State of California.

This Term Sheet shall be subject to the Confidential Information Exchange and Mutual Nondisclosure Agreement dated as of August 16, 2010 between Pacific Gas and Electric Company and SVTC Technologies, Inc.

**Offering Terms**

*Closing Date:* As soon as practicable following the Company’s and Investor’s acceptance of this Term Sheet and satisfaction of the Conditions to Closing (the “**Closing**”).

*Investor:* Pacific Gas and Electric Company, a California corporation (“**PG&E**”).

*Amount to be Raised:*

\$9,900,000 comprised of a first closing of approximately \$7,000,000 (the “First Tranche”) followed by a second closing of approximately \$2,900,000 on or about the first anniversary of Closing (the “Second Tranche”).

The Second Tranche shall be conditioned upon achievement of the following milestones (and if such milestones are not achieved, or are partially achieved, PG&E shall have the right, but not the obligation, to close): (1) \$30,000,000 in DOE grant funds have been awarded and receipt of confirmation from the DOE that its funding for the second year of the project is formally committed to the Company; (2) Formal approval from DOE to continue work on the project into Year 2 based on satisfactory performance by the Company against the specific objectives and milestones of the project in Year 1, all of which shall be detailed in the formal Statement of Project Objectives included in the DOE contract prior to the closing of the First Tranche; and (3) Subject to the Pre-Money Valuation provision, the additional cost sharing funds and contributions (including tools and equipment) from parties other than DOE and PG&E necessary to complete and operate Phase 1 of the MDF Facility have been formally committed to the Company.

Shares of Series B Stock representing the full \$9,900,000 shall be issued at the Closing; if milestones are not satisfied and the Second and/or Third Tranche do not occur by the times specified above, then the shares applicable to such Tranches will be forfeited.

*Security to be Issued:*

Up to 11,307,524 shares of Series B Redeemable Preferred Stock (“**Series B Stock**”).

*Price Per Share:*

Approximately \$0.875525 per share (the “**Original Purchase Price**”). The preliminary share price is based upon the capitalization of the Company as set forth in Exhibit A.

*Pre-Money Valuation:*

The Original Purchase Price is based upon a fully-diluted, pre-money valuation of approximately \$40,447,000 (provided that such valuation shall be adjusted, on a prorated basis, in the event and to the extent that (1) funds that have been appropriated, obligated and committed by the DOE to SVTC for the project shall fall short of \$30,000,000 or (2) the Company's matching funding from the State of California or from such other source(s) as approved by the DOE and/or the Investor (such Investor approval not to be unreasonably withheld) for its DOE funding shall fall short of \$100,000). The fully diluted capitalization of the Company shall include any shares of capital stock issued or committed to be issued to employees, consultants or other service providers to the Company (which shall be established at Closing at an unallocated option pool of 10% for future grants of incentive equity).

*Aggregate Proceeds:*

Aggregate proceeds will total approximately \$9.9 million.

*Post-Financing Capitalization:*

See Exhibit A.

*General Terms:*

The Series B Stock will rank senior to the Company's Series A Preferred Stock (the "**Series A Stock**") and Common Stock (the "**Common Stock**") with respect to dividends, liquidation, and dissolution. For the purposes of this Term Sheet, the Series A Stock and Series B Stock will be referred to as the "**Preferred Stock**".

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION**

*Dividends:*

Holders of Series B Stock shall be entitled to receive an annual per share dividend equal to 7.6% (compounded annually) of the Original Purchase Price (as adjusted for recapitalizations and the like) when and if declared by the Company's board of directors (the "**Board**"). Such dividends shall be cumulative if not paid. After payment of the preferential dividends to the holders of Series B Stock, any further cash dividends will be paid pro rata to the holders of the Preferred Stock and the Common Stock on an as-converted basis. The above provisions are subject to any restrictions that may be imposed by the DOE as part of its funding grants.

*Liquidation Preference:*

In the event of any liquidation, dissolution or winding up of the Company, the holders of the Series B Stock will be entitled to receive, prior to any distribution to the holders of the Series A Stock or Common Stock, an amount equal to the Original Purchase Price of the Series B Stock plus all accrued but unpaid dividends thereon (the "**Series B Preference Amount**"), provided that in the event of any escrow, hold-back or similar arrangement, the full amount of the Series B Preference Amount shall be applied against the amount to

be paid to shareholders prior to any setting aside of proceeds for such escrow. Following such distribution to the holders of Series B Stock, the holders of Series A Stock will be entitled to receive, prior to any distribution to the holders of the Common Stock, an amount equal to the original purchase price of the Series A Stock plus all declared but unpaid dividends thereon (the “**Series A Preference Amount**”, and collectively with the Series B Preference Amount, the “**Preference Amount**”), provided that in the event of any escrow, hold-back or similar arrangement, the full amount of the Series A Preference Amount shall be applied against the amount to be paid to shareholders prior to any setting aside of proceeds for such escrow. If the Company has insufficient assets to permit payment of the Preference Amount in full to all holders of Series A Stock and Series B Preferred Stock, then the assets of the Company will be distributed first to the holders of the Series B Preferred Stock. Upon full payment of the Series B Preference Amount, the Company’s assets will next be distributed to satisfy the Series A Preference Amount.

After the full Preference Amount on all outstanding shares of Series A Stock and Series B Stock has been paid, any remaining funds and assets of the Company will be distributed pro rata among the holders of the Common Stock, Series A Stock and Series B Stock on an as-converted basis.

A merger or consolidation (other than one in which stockholders of the Company own a majority by voting power of the outstanding shares of the surviving or acquiring corporation), a sale, lease, transfer or other disposition of all or substantially all of the assets of the Company, or any liquidation, dissolution or winding up of the Company, either voluntary or involuntary, are deemed to be a liquidation, dissolution or winding up of the Company for purposes hereof.

*Voting Rights:*

Each share of Preferred Stock shall carry a number of votes equal to the number of shares of Common Stock then issuable upon its conversion into Common Stock. The Series A Stock and Series B Stock shall generally vote together with the Common Stock on an as-converted basis and not as a separate series or class, except as provided by law or as provided elsewhere in this Term Sheet.

*Board Representation:*

The size of the Board will be fixed at five. So long as (a) at least 33-1/3% of the shares of Series A Stock initially issued remain outstanding, the holders of Series A Stock shall be entitled to elect three directors, and (b) at least 33-1/3% of the shares of Series B Stock initially issued remain outstanding, the holders of Series B

Stock shall be entitled to elect one director. The directors appointed by the holders of the Series A and Series B Stock shall unanimously appoint one additional director.

A compensation committee of the Board will be established, consisting of the representative of the Series B Stock and one additional director. All material compensation decisions shall be approved by the Compensation Committee, including all compensation matters for senior management of the Company.

*Protective Provisions:*

So long as at least 33-1/3% of the shares of Series B Stock initially issued remains outstanding, the Company shall not, without the consent of the holders of a majority of the outstanding Series B Stock (voting as a separate class), either directly or by amendment, merger, consolidation or otherwise:

- (i) amend, alter or repeal any provision of the charter documents of the Company if such action would adversely alter the rights, preferences, privileges or powers of the Series B Stock;
- (ii) increase or decrease the authorized shares of Common Stock;
- (iii) authorize, create or issue shares of any class of stock having preferences, privileges or powers superior to or on parity with the Series B Stock;
- (iv) declare or pay a dividend on, or repurchase any shares of, the capital stock of the Company (subject to standard exceptions for the repurchase of unvested incentive equity at no more than cost);
- (v) create or authorize the creation of any debt security, including leases and bank loans, in excess of \$5,000,000 (provided that this provision shall not apply to funds being borrowed or raised to redeem the Series B Stock and where the closing of such debt issuance is simultaneous with the redemption of the Series B Stock);
- (vi) authorize any merger, acquisition or sale of substantially all of the assets of the Company or any of its subsidiaries;
- (vii) effect any affiliate transaction (including without limitation any transaction with SVTC Technologies), except for those agreements described on Exhibit B; provided that affiliate transactions on Exhibit B shall only be exempted from the approval rights of the Series B Stock if such affiliate transactions have been documented through executed documents or

arrangements at or prior to Closing.

*Optional Conversion:*

The holders of the Series A Stock and Series B Stock shall have the right to convert their Preferred Stock into shares of Common Stock at any time. The total number of shares of Common Stock into which the Series B and Series A Preferred may be converted initially will be determined by dividing the Original Purchase Price by the conversion price. The initial Series B conversion price will be the Original Purchase Price (i.e., a 1-to-1 initial conversion ratio). The conversion price will be subject to adjustment to reflect stock dividends, stock splits and similar events and as described below under the caption “Antidilution Provisions”.

*Automatic Conversion:*

Each share of Preferred Stock shall automatically be converted into Common Stock, at the then applicable conversion rate: (i) immediately prior to the closing of, and conditioned upon the closing of, the first underwritten public offering of shares of Common Stock of the Company with gross proceeds to the Company no less than \$20 million and at a price per share of at least 5 times Series B Original Issue Price (a “**Qualified Public Offering**”), or (ii) on the date specified by the holders of a majority of each of the then outstanding shares of Series A Stock and Series B Stock, voting as separate classes (provided that if less than 33-1/3% of the shares of Series B Stock initially issued remain outstanding, then such vote shall be a vote of all then outstanding shares of Series A Stock and Series B Stock, voting as a single class).

*Antidilution Provisions:*

In the event that the Company issues additional securities at a purchase price less than the current Series B Preferred conversion price, the Series B Stock conversion price shall be adjusted in accordance with a broad-based weighted-average antidilution formula. Such adjustment shall not apply to any of the following (“**Exempt Issuances**”):

- (i) issuances of shares of Common Stock reserved for issuance to employees, consultants, officers or directors pursuant to stock purchase or stock option plans or agreements or other incentive stock arrangements approved by the Board, including the Series B Director;
- (ii) issuances in connection with the exercise or conversion of exercisable or convertible securities that are outstanding as of the closing;
- (iii) issuances in connection with a dividend or distribution on Preferred Stock;

(iv) issuances in a Qualified Public Offering;

(v) issuances in connection with acquisitions by the Company provided such issuance is approved by the Board, including the Series B Director;

(vi) issuances to banks, equipment lessors or other financial institutions, pursuant to a debt financing or commercial leasing transaction;

(vii) issuances in connection with research, collaboration, licenses or other similar agreements or strategic partnerships approved by the Board, including the Series B Director;

(viii) issuances to suppliers or third party service providers in connection with the provision of goods or services in transactions approved by the Board, including the Series B Director; and

(ix) issuances which are approved by the affirmative vote of majority of the then outstanding shares of Series B Stock (voting as a separate class);

all subject to standard limitations and proportional adjustments to conversion price for stock splits, stock dividends and other recapitalizations.

The Series A Stock shall have similar anti-dilution adjustments that shall be triggered by issuances below the original issue price of the Series B Stock.

*Redemption Rights:*

The Series A Stock shall not be redeemable. The Series B Stock shall be redeemable, [in whole but not in part], at the option of the Company, at any point after the fifth anniversary of the Closing and prior to the eighth anniversary of the issuance of the Series B Stock. On or after the eighth anniversary of the issuance of the Series B Stock, the Series B Stock shall be redeemable, [in whole but not in part], at the option of the holders of a majority of the outstanding shares of Series B Stock. The Series B Stock can be redeemed upon paying to the holders an amount equal to the Original Issue Price plus a redemption premium to be calculated as 7.6% per year, compounded annually.

In addition, the Investor Rights Agreement shall provide that if the Company proposes to pay a dividend on the Series B Preferred Stock, the Investor shall have the right to instead require the Company to repurchase shares of Series B Stock with a value equal to the amount of dividends being paid.

## **STOCK PURCHASE AGREEMENT**

*General Terms:*

The purchase of shares of Series B Stock shall be made pursuant to a Stock Purchase Agreement reasonably acceptable to the Company and the Investor, which agreement shall contain, among other things, customary representations and warranties of the Company and the Investor, covenants of the Company reflecting the provisions set forth herein, and appropriate conditions of closing, including an opinion of counsel for the Company.

*Representations and Warranties of the Company:*

Standard representations and warranties.

*Conditions to Closing:*

The closing for the purchase of the Series B Stock will be conditioned upon:

1. Completion of financial and legal due diligence to the satisfaction of the Investor;
2. Execution by the Company, Investor and at least 90% of each class of the current shareholders of a definitive Stock Purchase Agreement and ancillary agreements including an Investor Rights Agreement, Co-Sale and Right of First Refusal Agreement, and Voting Agreement;
3. Compliance by the Company with applicable securities laws;
4. Opinion of counsel to the Company rendered to the Investor in form and substance reasonably satisfactory to the Investor;
5. Filing of an amendment to the Amended and Restated Certificate of Incorporation of the Company establishing the rights, privileges and preferences of the Series A Stock and Series B Stock; and
6. Such other conditions as are customary for transactions of this type.
7. Investor's satisfaction, in its discretion, that (1) \$30,000,000 in DOE grant funds have been awarded, obligated and committed to SVTC by DOE for the project; (2) The baseline manufacturing equipment, as described in SVTC's DOE proposal and identified in Exhibit C to this Term



Sheet, has been formally committed to the project; (3) The facility at 5215 Hellyer Avenue in San Jose has been formally committed to the project; (4) SVTC's contribution to the Company has been verified to have a value of \$10,447,000; and (5) DOE has approved the formal Statement of Project Objectives for the project included in the DOE contract, a copy of which has been provided to PG&E prior to Closing.

8. Regulatory approvals required by Investor to effect the financing using revenues from rates collected from Investor's customers shall have been obtained.

*Expenses and Legal Fees:* Company to pay all legal and administrative costs of the financing at Closing, including reasonable fees and expenses of Pillsbury Winthrop Shaw Pittman, counsel to the Investor, in an amount not to exceed \$50,000.

## **INVESTOR RIGHTS AGREEMENT**

*Registration Rights:*

*Registrable Securities:* All shares of Common Stock issuable upon conversion of the Series A Stock and Series B Stock and any other Common Stock held by the Investors will be deemed "**Registrable Securities.**"

*Demand Registration:* Upon the earlier of (i) five years after the Closing; or (ii) 180 days following an initial public offering ("**IPO**"), persons holding at least 10% of the Registrable Securities may request up to (2) two registrations by the Company of their shares. The aggregate offering price for such registration may not be less than an aggregate offering price of \$10 million.

*Registration on Form S-3:* The holders of Registrable Securities will have the right to require the Company to register on Form S-3, if available for use by the Company, Registrable Securities with an aggregate offering price of at least \$5 million. There will be no limit on the aggregate number of such Form S-3 registrations, provided that there is no more than (1) one per every 12-month period.

*Piggyback Registration:* The holders of Registrable Securities will be entitled to "piggyback" registration rights on all registration statements of the Company, subject to the right, however, of the Company and its underwriters to reduce the number of shares proposed to be registered to a minimum of 20% on a pro rata basis and to complete reduction on an IPO at

the underwriter's discretion and all other stockholders' shares (shares that are not Registrable Securities) are reduced.

*Expenses:*

The registration expenses (exclusive of stock transfer taxes, underwriting discounts and commissions) will be borne by the Company. The Company will also pay the reasonable fees and expenses of one special counsel to represent all the participating stockholders, not to exceed \$25,000.

*Lock-up:*

Holders of Registrable Securities shall agree in connection with the IPO, if requested by the managing underwriter, not to sell or transfer any shares of Common Stock of the Company (excluding shares acquired in or following the IPO) for a period of up to 180 days following the IPO, extendable for up to an additional 30 days (provided all directors and officers of the Company and all 1% or greater stockholders are similarly locked-up).

*Termination of Registration Rights:*

The registration rights of a holder of Registrable Securities shall terminate upon the earlier of (i) 5 years after the closing of an IPO or (ii) any date, on or after the closing of the Company's first registered public offering, on which all shares such holder's Registrable Securities may be immediately sold under Rule 144 promulgated under the Securities Act of 1933 during any 90 day period.

*Subsequent Registration Rights:*

The Company shall not grant registration rights to any other holder of the Company's securities superior to or on parity with those granted to the holders of Registrable Securities without the prior approval of the holders of the outstanding Registrable Securities, including the holders of a majority of the Registrable Securities issued or issuable upon conversion of the shares of Series B Stock.

*Transfer of Registration Rights:*

Subject to the terms of the Investors Rights Agreement and Right of First Refusal and Co-Sale Agreement, the registration rights may be transferred to a transferee who acquires at least 2,000,000 Registrable Shares or shares of Preferred Stock with a value of at least \$2,000,000 (calculated based on such stock's original purchase price, as adjusted). Transfer of registration rights to an affiliate, a shareholder, member, or limited or general partner of Investor will be without restriction as to minimum shareholding.

*Information Rights:*

Each holder of 5,000,000 Registrable Securities (each a "**Significant Holder**") shall be entitled to receive from the Company:

- (i) audited annual financial statements within 120 days after the end of each fiscal year, prepared in accordance with US GAAP or IFRS;

- (ii) unaudited quarterly financial statements within 45 days of the end of each fiscal quarter;
- (iii) unaudited monthly financial statements within 30 days of the end of each calendar month; and
- (iv) an annual budget no later than the beginning of each fiscal year.

Each Significant Holder shall have standard inspection rights.

These information and inspection rights shall terminate upon the Company's IPO.

*Preemptive Rights:*

Each Significant Holder shall have a right of first offer to purchase up to its pro rata share (based on its percentage of the Company's outstanding shares of Common Stock, calculated on an as-converted basis for all outstanding shares, warrants, options and convertible securities) of any equity securities offered by the Company, on the same price and terms and conditions as the Company offers such securities to other potential investors (with a right of oversubscription if any holder of this right of first offer elects not to purchase its pro rata share). This right shall not apply to any Exempt Issuances. These preemptive rights shall terminate upon the Company's IPO.

*Directors and Officers Insurance:*

The Company will bind directors and officers insurance with a carrier and in an amount satisfactory to the Board, including the Series B Director. In the event the Company merges with another entity and is not the surviving corporation, or transfers all of its assets, proper provisions shall be made so that successors of the Company assume Company's obligations with respect to indemnification of Directors.

*Employee Stock Options Vesting:*

All employee options to vest as follows: 25% after one year, with remaining vesting monthly over next 36 months.

*Employee Stock Options Pool:*

The Company's board of directors shall create a stock option pool of 10% of the Company's stock on a fully diluted, as-converted basis, pre-financing.

**RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

*Right of First Refusal and Co-Sale*

The Company, the requisite number of holders of Series A Stock and the Investor shall enter into a Right of First Refusal and Co-Sale Agreement which shall give the each holder of shares of Preferred

Stock with a value of at least \$5,000,000 (calculated based on such stock's original purchase price, as adjusted) (each, an "**Eligible Investor**") first refusal rights and co-sale rights providing that any shareholder who proposes to sell all or a portion of his or her shares to a third-party (after the Company has failed to exercise its first refusal rights) must permit each Eligible Investor, at its option, (i) to purchase such holder's pro rata share of such stock on the same terms as the proposed transferee (with a right of oversubscription if any holder of this right of first refusal elects not to purchase its pro rata share), or (ii) sell a proportionate part of their shares on the same terms offered by the proposed transferee.

These rights shall terminate upon the earlier of (i) the closing of the Company's Qualified Public Offering, (ii) the date the Right of First Refusal and Co-Sale Agreement is terminated pursuant to the consent of at least a majority of the holders of outstanding Series A Stock and a majority of the holders of outstanding Series B Stock, voting as separate classes; (iii) liquidation, dissolution or winding up of the Company or (iv) immediately prior to a change of control of the Company.

### **VOTING AGREEMENT**

*General Terms:*

The Company, the requisite number of holders of Series A Stock and the Investor shall enter into a Voting Agreement which shall provide, among other things, that all parties thereto will vote or give their written consent with respect to all of their shares so as to achieve the Board of Directors composition set forth in "Board Representation" above.

### **OTHER MATTERS**

*Series A Preferred Stock:*

The terms set forth above for the Series B Stock are contingent upon and subject to a review of the rights, preferences and restrictions for the Series A Stock. The Series A Stock will be issued immediately prior to and contemporaneously with the issuance of the Series B Stock. The rights and privileges attaching to the Series A Stock shall be in conformity with this Term Sheet as of the Closing.

EXECUTED THIS \_\_\_\_\_, 2011.

On Behalf of the Investor:

**Pacific Gas and Electric Company**

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

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

Date: \_\_\_\_\_

Agreed and Accepted:

**SVTC Solar, Inc.**

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

Name: Bert Bruggeman\_\_\_\_\_

Date: \_\_\_\_\_

Redacted

Series B term sheet

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## Exhibit A

### Post-Financing Capitalization Table\*

<b>Class</b>	<b>Shares</b>
Series A Stock	40,447,412
Series B Stock	11,307,524
Stock option pool	5,750,575
<b>Total shares outstanding – post closing</b>	<b>57,505,510</b>

## **Exhibit B**

### **Affiliate Transactions**

#### **Shared services agreement**

SVTC Technologies, LLC (“SVTC”) will provide general, administrative and support services to the Company at cost. These services will likely include such items as IT, finance, accounting and administrative and management functions.

#### **Equipment hosting agreement**

Approximately ten semiconductor manufacturing tools located within SVTC’s current facilities will be dedicated for sole and exclusive use by the Company. As it is not practical to move the tools due to the installation and moving costs as well as the differing classifications of the clean room environments, the tools will remain at their current locations and will not be moved to the Company’s facility. SVTC will provide a clean room environment and maintenance for the tools and will also offer tool operations resources upon the Company’s request. The hosting and the provision of the operating services will be charged at cost by SVTC to the Company.

#### **Supply agreement**

There may be instances where the Company has engaged with a customer to provide services, some of which must be outsourced to a third-party. When such an event occurs, the Company will have the ability, at its option, to use the services of SVTC. Rates for such services will be based upon the lower of market rates or a share of the margin earned by SVTC in respect of the customer’s project.

#### **Technology and Business license agreement**

The Company will be granted a perpetual license from SVTC, transferable upon the sale of the Company or all or substantially all of its assets, that will allow it to utilize SVTC’s current technology and business method IP subject to such further terms as will be set forth in the definitive agreements. The IP license will be provided at no cost to the Company.

## **Exhibit C Equipment Listing**

### **Wet Benches**

Acidic and Alkaline Lab Wet Benches  
PSG Etch

### **Doping/Diffusion**

Inline doper system and diffusion furnace

### **ARC Coating**

Multilayer capable PECVD/MAiA XS

### **Metallization**

Screen Print  
Co-firing System

### **Metrology**

Metrology Package for Offline Characterization  
Cell Tester