

TOWN OF SOUTH KINGSTOWN, RI

REQUEST FOR PROPOSAL

ON-SITE SOLAR PV AND EXCESS RENEWABLE
NET METERING CREDITS
POWER PURCHASE AGREEMENT



SUBMITTED BY THE TOWN OF SOUTH KINGSTOWN IN
CONJUNCTION WITH THE TOWN OF NARRAGANSETT

PO # 20160299-00

Contents

1.0	GENERAL INFORMATION	3
1.1	Summary	3
1.2	Town of South Kingstown	3
2.0	INSTRUCTIONS TO DEVELOPERS	3
2.1	RFP Schedule	3
2.2	Submission Process	4
2.2.1	Pre-Proposal Conference	4
2.3	Communication	5
2.4	CONTACT INFORMATION	5
2.5	Accept/Reject Proposal	5
2.6	Withdrawal of Proposal	5
2.7	Proposal Results	5
2.8	No Town Obligation	6
2.9	Expenses.....	6
3.0	SOUTH KINGSTOWN TERMS AND CONDITIONS.....	6
3.1	Proposal Materials	6
3.2	Rhode Island Public Records Law	6
3.3	RFP Interpretation.....	6
3.4	Addenda	6
3.5	Proposal Modification	6
3.6	Confidentiality	6
4.0	CONTRACT	7
4.1	Contract Requirements	7
4.2	Licensing Requirements	7
4.4	Solar Power Purchase Agreement.....	7
4.5	Permitting	7
5.0	QUANTITY AND PRICE	8
5.1	Termination/Buyout Schedule	8
5.2	Solar Energy Facility- Site Details	9
5.3	Post Contract Site Closure Surety	10
6.0	QUALIFICATION	10
6.1	Company History and Qualification	10
6.2	Solar PV Qualifications	10
7.0	AWARDS	10
7.1	Award Criteria [Example]	10

1.0 GENERAL INFORMATION

1.1 Summary

The Town of South Kingstown (“South Kingstown”) acting on behalf of the Town of South Kingstown and Town of Narragansett, hereinafter referred to as the South Kingstown Solar Consortium (SKSC)” is soliciting proposals for the development of on-site solar project(s), to sell power and/or renewable excess generation credits to the SKSC pursuant to a power purchase agreement. Systems would be owned and operated by the bidder and developed at no up-front cost to the SKSC.

The term of the contract is expected to be twenty (20) years, commencing during 2016, depending on the Commercial Operation Date (“COD”) of the Solar Energy Facilities. Shorter or longer terms will also be considered.

Additionally, the SKSC is interested in two potential environmental attributes ownership proposals, for 0% of the RECs generated and 100% of the RECs generated after 10 years of operation.

This Request for Proposals is being issued by Competitive Energy Services, LLC (“CES”) as the consultant to SKSC for this purpose. As noted elsewhere in this document, respondents shall not communicate in any manner with the SKSC personnel regarding this RFP. All communications shall be made directly with CES.

1.2 Town of South Kingstown

There are two – (2) properties under consideration for solar photovoltaic systems owned by the SKSC, which are located in the Town of South Kingstown and West Kingstown. The Town of South Kingstown is located in Washington County, Rhode Island. It was incorporated in 1723 and includes the villages of Kingston, West Kingston, Wakefield, Peace Dale, Snug Harbor, Tuckertown, East Matunuck, Matunuck, Green Hill and Perryville. It has a population of 30,639 (2010 Census).

This RFP is focused on providing energy and/or kWh credits to the SKSC, though the SKSC welcomes opportunities to integrate environmental benefits associated with the project.

Firms interested in submitting a proposal must register on-line to download and print the Request for Proposals package. For further details please visit the Town’s website: www.southkingstownri.com and select Invitations to Bid.

2.0 INSTRUCTIONS TO DEVELOPERS

2.1 RFP Schedule

Event	Date and time
RFP Release Date	October 22, 2015
Pre-Proposal Conference and Site Walk (optional)	October 30, 2015 @9:00 AM EST
Deadline for Developer Questions	November 2, 2015 @ 5:00 PM EST
Response to Developer Questions	November 6, 2015
Proposal Due Date via email	November 20, 2015 @ 2:00 PM EST
Finalist Interviews	November 24, 2015
Award Date	December 14, 2015

The Town of South Kingstown may change these dates at its sole discretion, in the form of an addendum.

All notifications, releases and amendments to this RFP, including any attachments will be posted to the Town website (<http://www.southkingstownri.com/>).

2.2 Submission Process

All proposals must be received via email at mgamache@competitive-energy.com, zbloom@competitive-energy.com, iceasrine@narragansetttri.gov and jschock@southkingstownri.com on or before **2:00 p.m. EST on November 20, 2015**.

The email subject line should read: **"RESPONSE to South Kingstown Solar Consortium RFP"** and must include the following documents.

An original printed proposal plus one copy on CD Rom or a Flash Drive must be received within 3 business days of the deadline in a sealed package marked with the "Bid Response: Town of South Kingstown – Solar PV" to the following address:

**Town of South Kingstown
Public Services Department
509 Commodore Perry Highway
Wakefield RI 02879
Attn: Jon Schock**

IMPORTANT: Proposals received after the due date and time indicated on the cover of this bid will not be considered. Proposals misdirected to other State Locations or those not presented to the Town of South Kingstown by the scheduled due date and time will be determined to be late and will not be considered.

Proposals must include the following documents:

- Completed sections of this document:
 - Section 6.0 Qualification
 - Section 8.0 References
- Completed Attachment 1 – Bidder Information and Signature Page
- Quantity and Price Proposal (including system buyout schedule) Using Attachment 4
- Redlined version of Attachment 5- Licensing Agreement
- Redlined version of Attachment 6- Power Purchase Agreement (if applicable)
- Redlined version of Attachment 7- RI Net Excess Generation Credit Agreement (if applicable)

A checklist has been provided for respondent's convenience as Section 9.0 of this RFP.

2.2.1 Pre-Proposal Conference

A **pre-proposal conference** will be held on **Friday, October 30, 2015 at 9:00 A.M.** at the South Kingstown Town Hall Council Chambers, 180 High Street, Wakefield, RI 02879. A site walk to each landfill site will follow the pre-proposal conference. All developers planning on submitting a proposal are **strongly encouraged** to attend.

2.3 Communication

Bidders are advised that once the RFP has been issued, there should be no contact with any governmental employees, except for the official contact, regarding issues pertaining to this RFP. Instructions for participating in this bidding process, and information regarding this project, will be provided only through this RFP and written addenda. Please note the date and time of the pre-bid conference provided in Section 2.2 above.

Official Contact: Jon Schock, South Kingstown Public Services Director
jschock@southkingstownri.com

2.4 CONTACT INFORMATION

Except as may be noted otherwise herein, the issuing entity and sole contact for the coordination and dissemination of all information regarding this RFP is:

Competitive Energy Services, LLC
148 Middle St., Suite 506
Portland, ME 04101

Zac Bloom, Director of Sustainability & Renewables
zbloom@competitive-energy.com
Tel: (617) 237-6497

Matthew Gamache, Energy Analyst
mgamache@competitive-energy.com
Tel: (207) 772-6190 x236

2.5 Accept/Reject Proposal

Potential vendors are advised to review all sections of this RFP carefully and to follow instructions completely, as failure to make a complete submission as described elsewhere herein may result in rejection of the proposal.

The SKSC reserves the right to reject any or all proposals, wholly or in part; to waive technicalities, irregularities, and omissions; to make the award in a manner deemed to be in the best interest of the SKSC; and to correct any award erroneously made as a result of a clerical error on the part of the SKSC.

2.6 Withdrawal of Proposal

Proposals may be withdrawn at any time prior to the proposal receipt deadline date and time. Once the proposal receipt deadline has passed all proposals become the property of the SKSC.

2.7 Proposal Results

Complete records of all proposals and awards are maintained by the Town of South Kingstown. All bid documents will be made available for public examination after the bid evaluation committee has completed its bid review, selection and final award.

2.8 No Town Obligation

This RFP in no manner obligates the SKSC property owner to the eventual purchase of any products or services described, implied, or which may be proposed, until confirmed by written agreement, and may be terminated by the SKSC without penalty or obligation at any time prior to the signing of an agreement.

2.9 Expenses

Expenses for developing and presenting proposals shall be the entire responsibility of the Bidder and shall not be chargeable to SKSC. All supporting documentation and manuals submitted with this proposal will become the property of SKSC unless requested by the Bidder, in writing, at the time of the submission, and agreed to, in writing, by the SKSC.

3.0 SOUTH KINGSTOWN TERMS AND CONDITIONS

3.1 Proposal Materials

All material submitted in response to the RFP shall become the property of the SKSC upon submission and will be considered as part of this RFP.

3.2 Rhode Island Public Records Law

Vendors are advised that all materials submitted to the State for consideration in response to this RFP will be considered Public Records as defined in Title 38, Chapter 2 of the General Laws of Rhode Island, without exception, and will be released for inspection immediately upon request for after an award is made.

3.3 RFP Interpretation

Interpretation of the wording of this document shall be the responsibility of SKSC and that interpretation shall be final.

3.4 Addenda

Any addendum issued to Bidders prior to the proposal opening date shall include an addendum acknowledgement section. Since all addenda shall become a part of the proposal, all addenda must be signed by an authorized Bidder representative and returned with the proposal. Failure to sign and return any and all addendum acknowledgements may be grounds for rejection of the proposal response.

3.5 Proposal Modification

Any exceptions/ additions/ alterations to the terms and conditions contained herein must be included in the bidder's proposal response. Failure to provide the required data to allow for evaluation of the bidder's response to the RFP, or failure to follow and complete the RFP proposal format and accompanying documents will be grounds for rejecting the proposal offer. The SKSC reserves the right to reject any proposals that alter the terms specified in the RFP.

3.6 Confidentiality

From the date of issuance of the RFP until the opening date, the Bidder must not make available or discuss its proposal, or any part thereof, with any employee or agent of the SKSC. The Bidder is hereby warned that any part

of its proposal or any other material marked as confidential, proprietary, or trade secret, can only be protected to the extent permitted by Rhode Island State laws.

4.0 CONTRACT

4.1 Contract Requirements

The selected firm will be required to enter into a mutually agreeable Contract for Services for the design and planning of the project. A copy of the SKSC Contract for Services is attached hereto and is incorporated into this RFP.

If proposer takes exception to any of the contract terms and conditions contained herein, it must be so noted in the bid. Such an exception may be grounds for rejection of the proposal, at the option of the SKSC.

4.2 Licensing Requirements

No later than 90 days after signing the service contract the bidder must produce designs and plans for the project acceptable to the SKSC and enter into a License Agreement substantially similar to the one attached hereto as "Attachment 5" and incorporated by reference. By submitting a response to this RFP the selected firm acknowledges and agrees to accept the terms and conditions set forth and further understands and that any request for a material or substantial change to the License Agreement may result the rejection of the selected firm's bid.

4.3 Design Plans and Superfund Landfill Design

Proponents are advised that the two – (2) properties are Superfund landfills that have been closed (capped) under US Environmental Protection Agency (USEPA) and RI Department of Environmental Management (RIDEM) requirements. Each landfill area incorporates a multi-layer cap with a gas collection system, impervious membrane and subsurface drainage layer. All equipment and utilities shall be an above grade ballasted type system. Penetrations or excavations into the multi-layer cap are expressly prohibited. Further, proponents are advised that side slope loading, and potential cap shearing may be a cause for concern, especially for the Rose Hill landfill site. As such, the proponent's design engineer shall be familiar with landfill cap design. Design plans shall be stamped by a Professional Engineer licensed by the State of Rhode Island.

Although USEPA and RIDEM are in support of landfill beneficial reuse, final project design shall be subject to approval by the SKSC, USEPA and RIDEM, to ensure protectiveness of the landfill caps and the general public. Institutional Controls (ICs) for each site are attached hereto for information of the proponents.

4.4 Solar Power Purchase Agreement

Bidders are expected to own and operate the proposed solar (and/or battery) systems for a defined term. The term of any Solar Agreement is expected to be twenty (20) years. Successful bidders will be asked to provide a draft Solar Power Purchase Agreement for review by the SKSC.

4.5 Permitting

Successful bidder(s) will be responsible for obtaining all federal, state, and local permits required for this project. This includes, but is not limited to – electrical, building, and Electrical Utility Company Interconnection Service Agreement (ISA).

5.0 QUANTITY AND PRICE

Solar Bidders shall clearly specify the fixed price per kWh, along with any escalators if applicable, for each year of the proposed term. Production guarantees and equipment warranties should be clearly specified if applicable. South Kingstown assumes that the successful bidder(s) will monetize federal tax and depreciation benefits available for solar PV.

South Kingstown is specifically interested in the following price scenarios related to ownership of the Renewable Energy Credits (RECs) associated with the proposed system(s).

1. South Kingstown owns 0% of the RECs for the duration of the system's operation
2. South Kingstown owns 100% of the RECs after year ten of the system's operation

Price Proposal Table

Ground Mount													
Site	Ownership Involvement	Facing	Slope	Acres	Size (kW-AC)	Annual Production (kWh)	\$/Kwh	Annual Escalator (%)	Discount of NEGC (%)	Floor Price (if any) (\$/kWh)	Lease Payment (\$/KW)	Pilot Payment	Type
Town Plains Road	Town of South Kingstown	Top	A	4.14							Yes	Yes	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	South	B	1.84							Yes	Yes	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	East	C	0.97							Yes	Yes	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	West	D	0.7							Yes	Yes	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	North	E	0.6							Yes	Yes	NM- Direct to Grid
Rose Hill	Town of South Kingstown	Top	A	15.11							Yes	Yes	NM- Direct to Grid
Rose Hill	Town of South Kingstown	South	B	0.25							Yes	Yes	NM- Direct to Grid
Rose Hill	Town of South Kingstown	East	C	2.17							Yes	Yes	NM- Direct to Grid
Rose Hill	Town of South Kingstown	West	D	2.42							Yes	Yes	NM- Direct to Grid
Rose Hill	Town of South Kingstown	North	E	0.47							Yes	Yes	NM- Direct to Grid
Aggregate Pricing				28.67							Yes	Yes	NM- Direct to Grid

[Example table pictured above]

Please use the table format in **Attachment 4** to submit pricing for one or more projects. Bidders are welcome to submit pricing for one or more of the scenarios included. Bidders can offer different pricing for different systems or aggregated pricing for a group of systems.

5.1 Termination/Buyout Schedule

Bidders should also include a fair market value calculation/buyout schedule as part of their price proposal. South Kingstown has particular interest in the cost of buying the system outright as well as potential ownership costs for each following year. Please use the following table format when submitting a buyout schedule:

Year of Operation	Cost to Buy PV System (\$)
Year 0 (buying the system as built)	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	

Year 10	
Year 11	
Year 12	
Year 13	
Year 14	
Year 15	
Year 16	
Year 17	
Year 18	
Year 19	
Year 20 (or final year of PPA)	

5.2 Solar Energy Facility- Site Details

There are two parcels at which the Town is interested in developing solar PV systems. Both sites represent former superfund sites with significant expanses of open space.

1. *Town Plains Road Parcel* – located along Plains Rd near the URI Kingston Campus is owned by the Town of South Kingstown. This property is located adjacent to the URI Disposal Site. The Town Plains Road site is a former municipal landfill used by the Towns of South Kingstown and Narragansett and the University of RI. The site was remediated (cap) in 2007 under USEPA presumptive remedy closure requirements. Additional site details may be found in **Attachment 2**.
2. *Rose Hill Parcel* – this approximately 20 acre site is located along Rose Hill Road across from Rose Hill Golf Club and is owned by the Town of South Kingstown. The Rose Hill Landfill is a former municipal landfill used by the Towns of South Kingstown and Narragansett. The site was remediated (cap) in 2007 under USEPA Superfund landfill closure requirements. Additional site details may be found in **Attachment 3**.

Parcel details are listed here:

Site	Ownership Involvement	Facing	Slope	Acres
Town Plains Road	Town of South Kingstown	Top	A	4.14
Town Plains Road	Town of South Kingstown	South	B	1.84
Town Plains Road	Town of South Kingstown	East	C	0.97
Town Plains Road	Town of South Kingstown	West	D	0.7
Town Plains Road	Town of South Kingstown	North	E	0.6
Rose Hill	Town of South Kingstown	Top	A	15.11
Rose Hill	Town of South Kingstown	South	B	0.25
Rose Hill	Town of South Kingstown	East	C	2.17
Rose Hill	Town of South Kingstown	West	D	2.42
Rose Hill	Town of South Kingstown	North	E	0.47
Aggregate Pricing				28.67

5.3 Post Contract Site Closure Surety

Upon completion of the contract term, the successful developer shall be responsible to remove all equipment, materials, utilities, cabling, etc., and return each site to a condition equal or better than the condition of the site prior to solar PV construction. The developer shall be required to provide surety in the form of a performance bond, escrow account, or other means of surety acceptable to the SKSC to ensure adequate funding is available for solar PV demobilization/ removal and restoration of each site to pre-construction conditions.

6.0 QUALIFICATION

6.1 Company History and Qualification

Each bidder may submit a brief description of their company history.

6.2 Solar PV Qualifications

Each bidder may submit a brief description of their solar PV qualifications.

7.0 AWARDS

The SKSC reserves the right to reject any or all bids, to waive technicalities and informalities, and to accept the proposal deemed best for the SKSC.

A Selection Committee representing the SKSC will review the proposals and select the vendor whose experience, services, availability, and references have the most appeal to the SKSC. Selected vendors may be invited to a central designated location to make a formal presentation of their bid response to the Selection Committee in order to clarify any questions the committee may have prior to an award being made. The presentation shall be made by the selected vendor(s) to the Selection Committee within ten (10) days after receiving the invitation to present. The bidder's failure to make such a timely presentation may be grounds for rejection of the bid, at the option of the Selection Committee.

7.1 Award Criteria [Example]

The award will be made to the vendor who, in the opinion of the Selection Committee, offers the best overall package. The evaluation will include, but will not necessarily be limited to, the following (in rank order of importance to the SKSC - note that some may be of equal importance):

1. Cost effectiveness of the proposed installation(s). (40%)
2. Professional qualifications of the proposer and past experience in the installation of solar PV systems, especially in a municipal setting. (20%)
3. Finalist interview. (5%)
4. Financial stability of company, Revenue sharing models and definitions of business models for project. (10%)
5. Demonstrated capability to design and follow an overall project schedule and a specific implementation schedule for this project that does not significantly interfere with the planned activities of South Kingstown. (5%)
6. Demonstrated capability of managing comparable systems and solving problems in a timely fashion. (5%)
7. References from previous/current clients. (5%)
8. Completeness of proposal submission. (5%)
9. Professional qualifications of any subcontractors and/or equipment suppliers. (5%)

The SKSC reserve the right to award solar PV contracts to different developers for both of the properties based upon the most favorable solar PV contract for each property.

The proposals will be evaluated based on a point system. The criteria and their assigned points will be placed in a sealed envelope in the bid file prior to the proposal opening date and time, for use by the Selection Committee during the award process.

Any resulting contract shall be construed under and governed by the Laws of the State of Rhode Island.

The terms of any resulting contract cannot be modified, altered, or changed without the specific written approval of the SKSC.

8.0 References

Please provide the names, addresses and contact information for three (3) references related to the technical expertise and financial capacity of the Bidder to develop the proposed Solar Energy Facilities.

Reference 1	
Name	
Address	
Contact Phone #	
Contact Email Address	

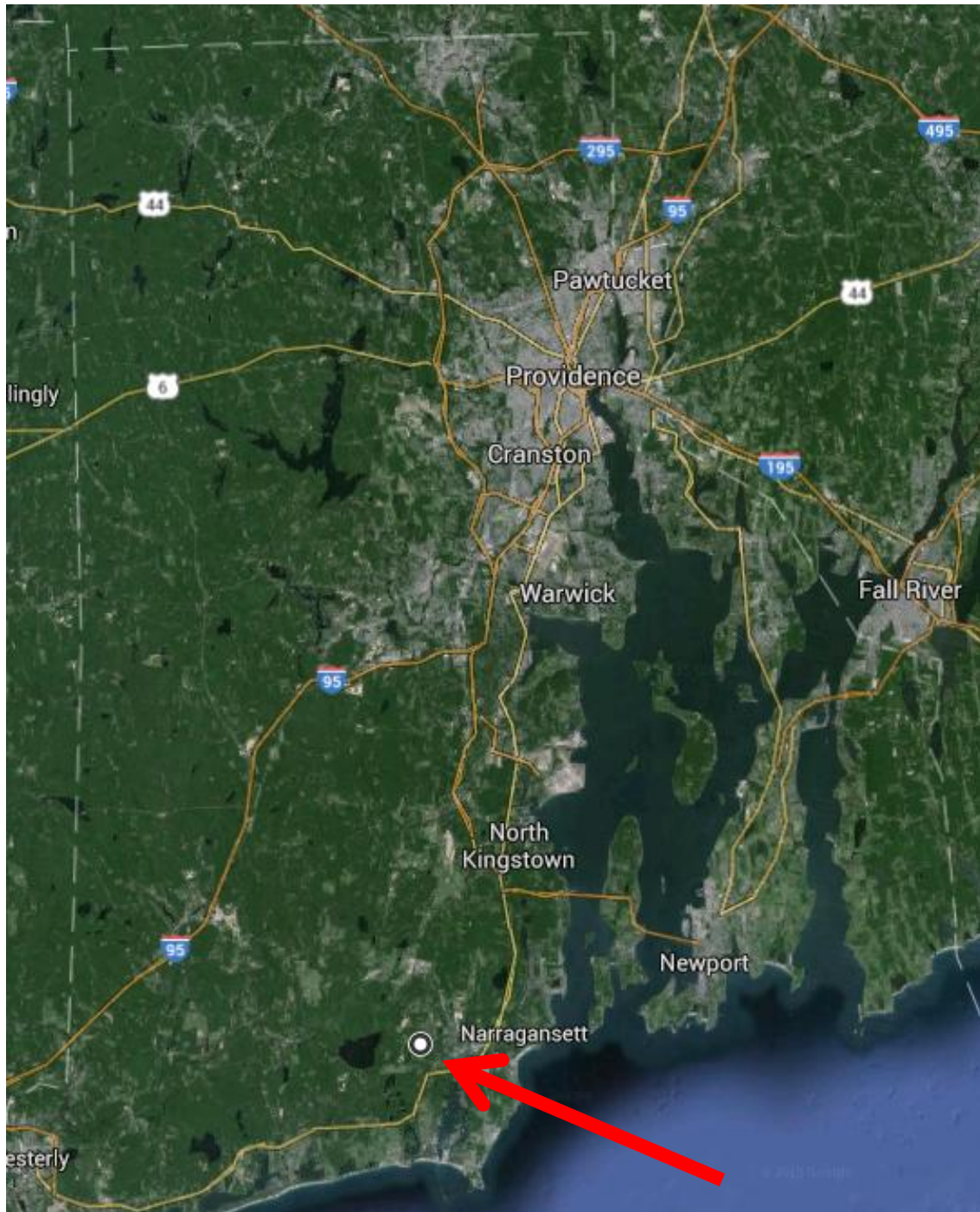
Reference 2	
Name	
Address	
Contact Phone #	
Contact Email Address	

Reference 3	
Name	
Address	
Contact Phone #	
Contact Email Address	

9.0 Response Checklist

- ___ Attachment 1 – completed and signed by authorized company person
- ___ Quantity and Price Proposal (completed table per Attachment 4)
- ___ Buyout Schedule as per Section 5.1 of this RFP
- ___ Materials related to Section 6 of this RFP
- ___ References per Section 8 of this RFP
- ___ Redlined version of applicable agreements (site license, power purchase, net metering)

EXHIBIT 1 – RI MAP
TOWN OF SOUTH KINGSTOWN LOCATION



**SOUTH KINGSTOWN SOLAR CONSORTIUM
REQUEST FOR PROPOSALS – SOLAR PPA/NEGC**

Attachment 1 – BIDDER INFORMATION / SIGNATURE

BIDDER INFORMATION:

Company name: _____

Address: _____

Tax I.D./FEIN: _____

OR

S.S.N. # (if individual)

CONTACT PERSON (Name) _____

Telephone Number: _____

Fax Number: _____

Email: _____

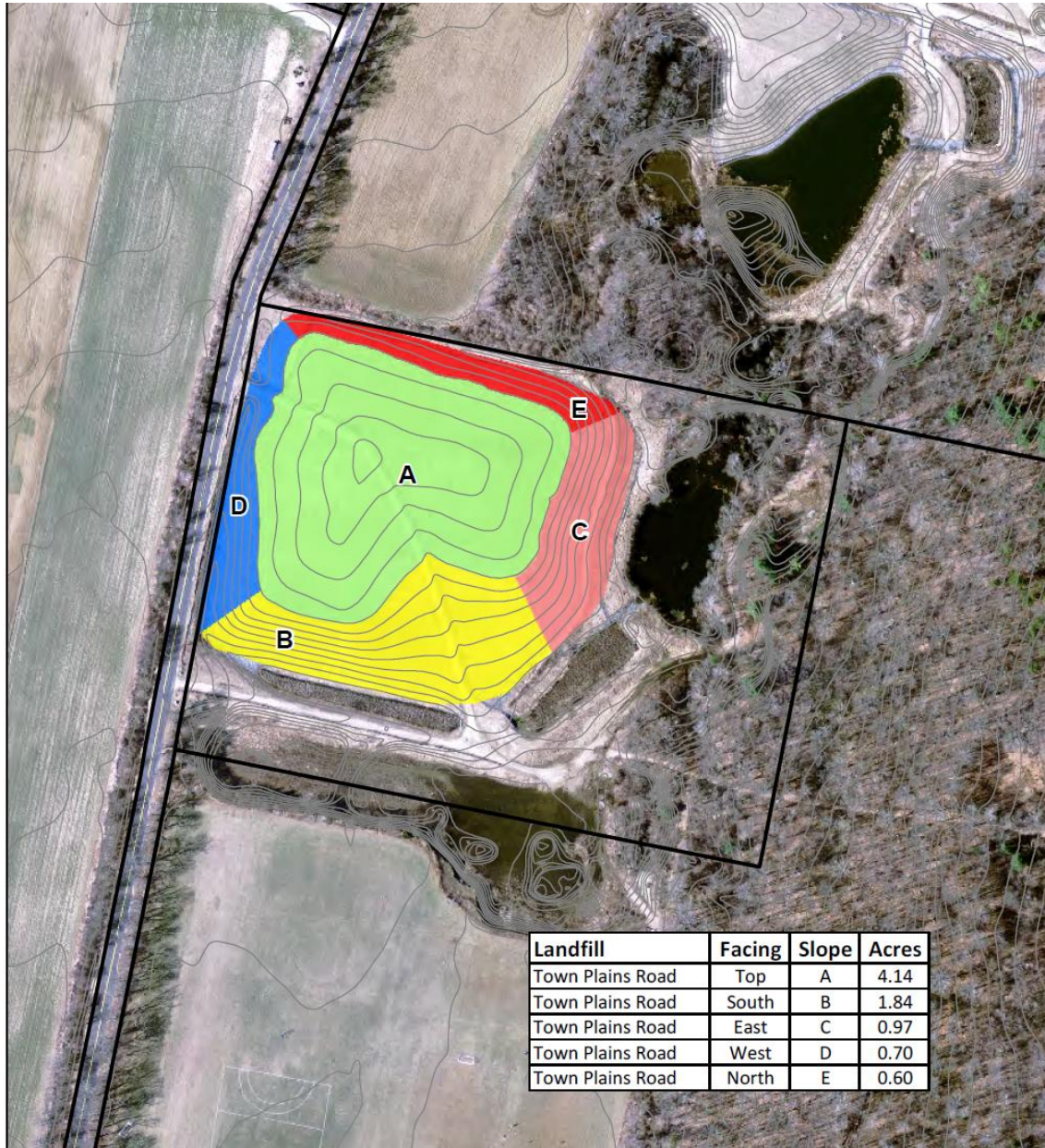
SIGNATURE:

Signature of owner or Authorized Officer: _____

Please print name and title of signer: _____

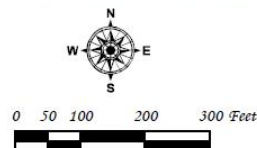
Date Submitted: _____

**SOUTH KINGSTOWN SOLAR CONSORTIUM
REQUEST FOR PROPOSALS – SOLAR PPA/NEGC
Attachment 2 – Plains Rd Parcel Site Details**



Town of South Kingstown
**West Kingston Town Dump
Surface Areas**

The area calculations are GIS derived and not of survey accuracy and the Town makes no warranty either written or implied as to their accuracy.

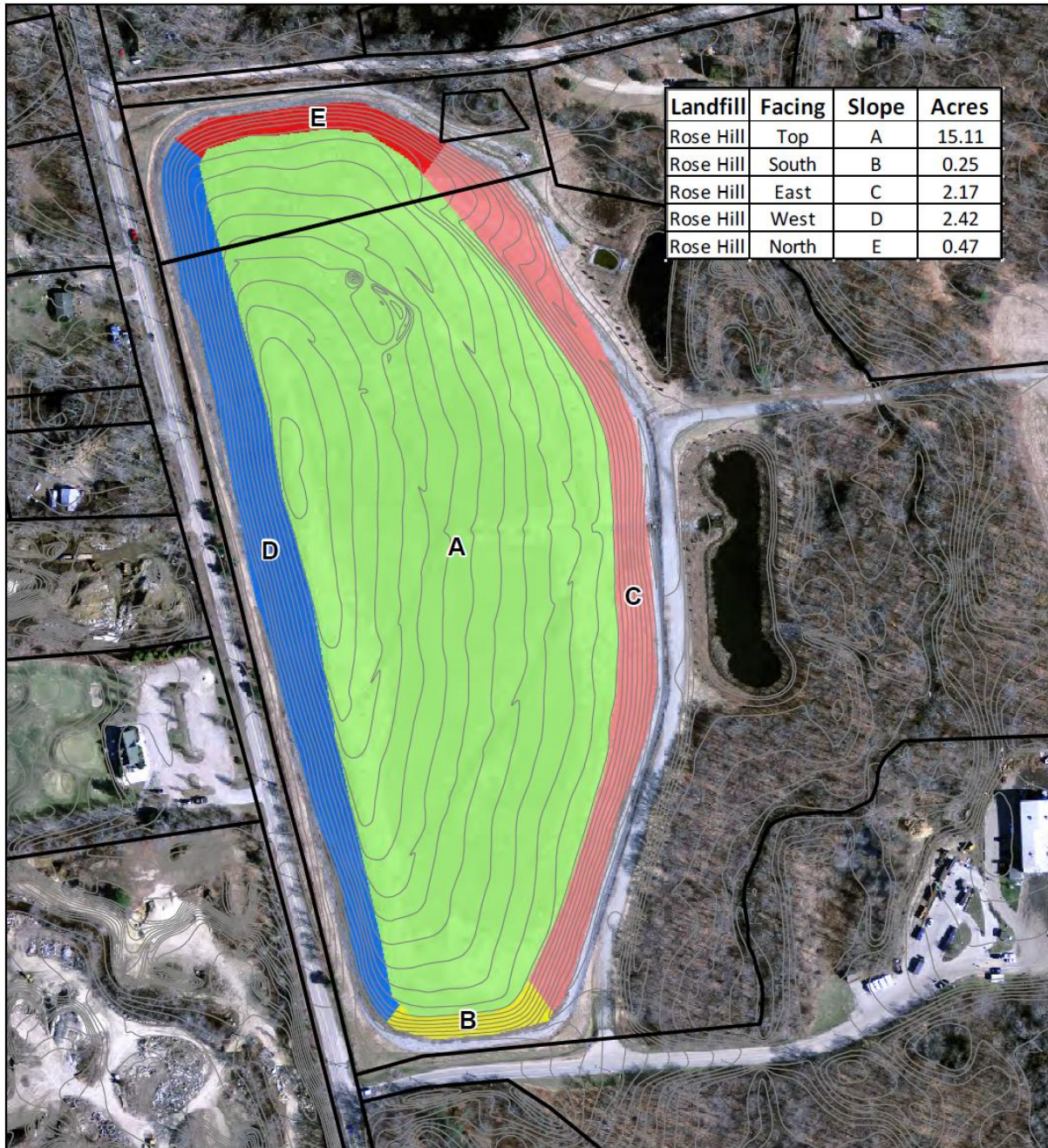


Aerial Photo: RIGIS April 2014
Contours: SKGIS, Not Survey Grade



*Geographic
Information
System*
PL15-79 cpb 10/15

**SOUTH KINGSTOWN SOLAR CONSORTIUM
REQUEST FOR PROPOSALS – SOLAR PPA/NEGC
Attachment 3 – Rose Hill Parcel Site Details**



Town of South Kingstown

Rose Hill Landfill Surface Areas

The area calculations are GIS derived and not of survey accuracy and the Town makes no warranty either written or implied as to their accuracy.



0 50 100 200 300 Feet

Aerial Photo: RIGIS April 2014
 Contours: SKGIS, Not Survey Grade



*Geographic
Information
System*
 PL15-70 cpb 10/15

**SOUTH KINGSTOWN SOLAR CONSORTIUM
REQUEST FOR PROPOSALS – SOLAR PPA/NEGC**

Attachment 4 – Pricing Spreadsheets

Spreadsheets available at:

<http://www.southkingstownri.com/>

**SOUTH KINGSTOWN SOLAR CONSORTIUM
REQUEST FOR PROPOSALS – SOLAR PPA/NEGC**

Attachment 5 – Licensing Agreement

Document available at:

<http://www.southkingstownri.com/>

**SOUTH KINGSTOWN SOLAR CONSORTIUM
REQUEST FOR PROPOSALS – SOLAR PPA/NEGC**

Attachment 6 – Solar PPA

Document available at:

<http://www.southkingstownri.com/>

**SOUTH KINGSTOWN SOLAR CONSORTIUM
REQUEST FOR PROPOSALS – SOLAR PPA/NEGC
Attachment 7 – Net Excess Generation Credit Agreement**

Document available at:

<http://www.southkingstownri.com/>

END OF PO # 20160299-00

South Kingstown
Solar PV RFP- Price Proposal
10/22/2015



Instructions to Bidders: Please fill out the blue cells in the following price proposal table to submit pricing for one or more of the projects listed. Pricing can be submitted in a fixed price, or percent discount format. Aggregate pricing

Ground Mount

Site	Ownership Involvement	Facing	Slope	Acres	Size (kW-AC)	Annual Production (kWh)	\$/Kwh	Annual Escalator (%)	Discount of NEG (%)	Floor Price (if any) (\$/kWh)	Lease Payment (\$/KW)	Pilot Payment	Type
Town Plains Road	Town of South Kingstown	Top	A	4.14							Yes	Yes	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	South	B	1.84							Yes	Yes	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	East	C	0.97							Yes	Yes	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	West	D	0.7							Yes	Yes	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	North	E	0.6							Yes	Yes	NM- Direct to Grid
Rose Hill	Town of South Kingstown	Top	A	15.11							Yes	Yes	NM- Direct to Grid
Rose Hill	Town of South Kingstown	South	B	0.25							Yes	Yes	NM- Direct to Grid
Rose Hill	Town of South Kingstown	East	C	2.17							Yes	Yes	NM- Direct to Grid
Rose Hill	Town of South Kingstown	West	D	2.42							Yes	Yes	NM- Direct to Grid
Rose Hill	Town of South Kingstown	North	E	0.47							Yes	Yes	NM- Direct to Grid
Aggregate Pricing				28.67							Yes	Yes	NM- Direct to Grid

Ground Mount

	Ownership Involvement	Facing	Slope	Acres	Size (kW-AC)	Annual Production (kWh)	\$/Kwh	Annual Escalator (%)	Discount of NEG (%)	Floor Price (if any) (\$/kWh)	Lease Payment (\$/KW)	Pilot Payment	Type
Town Plains Road	Town of South Kingstown	Top	A	4.14							Yes	No	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	South	B	1.84							Yes	No	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	East	C	0.97							Yes	No	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	West	D	0.7							Yes	No	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	North	E	0.6							Yes	No	NM- Direct to Grid
Rose Hill	Town of South Kingstown	Top	A	15.11							Yes	No	NM- Direct to Grid
Rose Hill	Town of South Kingstown	South	B	0.25							Yes	No	NM- Direct to Grid
Rose Hill	Town of South Kingstown	East	C	2.17							Yes	No	NM- Direct to Grid
Rose Hill	Town of South Kingstown	West	D	2.42							Yes	No	NM- Direct to Grid
Rose Hill	Town of South Kingstown	North	E	0.47							Yes	No	NM- Direct to Grid
Aggregate Pricing				28.67							Yes	No	NM- Direct to Grid

Ground Mount

	Ownership Involvement	Facing	Slope	Acres	Size (kW-AC)	Annual Production (kWh)	\$/Kwh	Annual Escalator (%)	Discount of NEG (%)	Floor Price (if any) (\$/kWh)	Lease Payment (\$/KW)	Pilot Payment	Type
Town Plains Road	Town of South Kingstown	Top	A	4.14							No	No	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	South	B	1.84							No	No	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	East	C	0.97							No	No	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	West	D	0.7							No	No	NM- Direct to Grid
Town Plains Road	Town of South Kingstown	North	E	0.6							No	No	NM- Direct to Grid
Rose Hill	Town of South Kingstown	Top	A	15.11							No	No	NM- Direct to Grid
Rose Hill	Town of South Kingstown	South	B	0.25							No	No	NM- Direct to Grid
Rose Hill	Town of South Kingstown	East	C	2.17							No	No	NM- Direct to Grid
Rose Hill	Town of South Kingstown	West	D	2.42							No	No	NM- Direct to Grid
Rose Hill	Town of South Kingstown	North	E	0.47							No	No	NM- Direct to Grid
Aggregate Pricing				28.67							No	No	NM- Direct to Grid

Table of Contents

ARTICLE 1. DEFINITIONS 2

ARTICLE 3. GRANT OF LICENSE RIGHTS 3

ARTICLE 4. LICENSE FEES..... 6

ARTICLE 5. THE SYSTEM AND INSTALLATION 6

ARTICLE 5A. EQUIPMENT AND INSTALLATION..... 8

ARTICLE 6. OPERATION AND MAINTENANCE OF SYSTEM..... 10

ARTICLE 7. INTERFERENCE 12

ARTICLE 8. DEFAULT AND REMEDIES..... 12

ARTICLE 9. ASSIGNMENT 14

ARTICLE 10. REPRESENTATIONS, WARRANTIES, AND COVENANTS..... 14

ARTICLE 11. CASUALTY, CONDEMNATION, INDEMNIFICATION AND INSURANCE..... 16

ARTICLE 12. MISCELLANEOUS 18

LIST OF ATTACHMENTSERROR! BOOKMARK NOT DEFINED.

This License Agreement ("License Agreement") is made as of _____, 2015 (the "Effective Date") by and among the South Kingstown, a public institution of higher learning organized and existing under the laws of the State of Rhode Island, ("SK" or "Licensor") and _____ ("Licensee") with its principal offices at _____.

Article 1. Definitions

1.01 **Definitions.** All capitalized words and terms shall have the same definition as set forth in Exhibit 4 of this Agreement, except the following words, terms and phrases wherever used in this License Agreement shall for the purpose of this License Agreement have the following meanings:

"Site" means the SK site as depicted on Attachment A.

"Connecting Equipment" shall mean those portions of the Licensee's cables, conduits; inner ducts and other connecting hardware connecting the System.

"Licensee Project Manager" means the sole individual designated by Licensee to be in charge of the Project. This is the only person with the authority to speak for Licensee or its subcontractors regarding the Project. This person shall be the official single point of contact for Licensee with Licensor.

"Operating Year" means a twelve (12) month period, the first of which is the twelve (12) month period that starts on the Commercial Operations Date.

"Phase I Construction" means all work to be completed using the Start Up Period including Licensee's initial demolition or preparation of predetermined sites that will be used for the installation of solar panels and/or associated equipment as more fully described in Exhibit 2.

"Phase II Construction" means Licensee's installation of solar panels and/or associated equipment as well as certain additions and enhancements in accordance Plans and Specifications approved in writing by SK.

"Preliminary Plans and Specifications" [To Be Developed By Successful Bidder and Approved By SK]

"System" means the entire on-site solar project (including rooftop and Parking Canopy systems) as specified in Exhibit 4 of the Agreement.

"South Kingstown Solar Consortium – (SKSC)" means the Town of South Kingstown ("South Kingstown") acting on behalf of the Town of South Kingstown, Town of Narragansett and University of Rhode Island,

"SK Project Manager" means the person designated by SK to serve as project manager. This person is the only person with the authority to officially speak for SK regarding any issues involving the design and installation of the System. This person shall be the official point of contact for SK with Licensee.

"University" means University of Rhode Island.

Article 2. Attachments

- 2.01 **Incorporation of Attachments.** All Attachments to this License Agreement are incorporated into and made a part of this License Agreement. In the event of a conflict or inconsistency between the Attachments and this License Agreement, this License Agreement shall control. It is understood by both Parties that Attachments _____ will need to be revised during the term of this License Agreement. Revisions to any of the above Attachments must be approved in writing by both Parties. Properly approved revisions shall be tracked and maintained separately but deemed part of this License Agreement *mutatis mutandis*.

Article 3. Grant of License Rights

- 3.01 **Term.** Except as otherwise expressly provided in this License Agreement, the term of this License Agreement, shall be coterminous with the Term set forth in Exhibit 4.

The Term shall commence upon the Commercial Operations Date and shall be memorialized by the parties by a written confirmation.

- 3.02 **Buyout.** If SKSC shall have the option to buy a portion of the System or the entire System at any time during the Term of this License and in the event SKSC elects to exercise its buyout option, SKSC shall provide the Licensee at least 30 days' written notice of the date it shall exercise the buyout option.

Within 30 days of the buyout date, SKSC shall remit payment in accordance with the agreed to buyout schedule which is attached hereto as Attachment B.

- 3.03 **Use of Premises.**

- (a) Licensee shall use the Premises only to install, demolish, operate, repair, modify, upgrade, alter, maintain, access and remove the equipment and related solar fixtures, equipment, cables, appurtenances, utilities and improvements as may be needed from time to time by Licensee. No other uses are permitted unless set forth in this License Agreement or previously authorized by SKSC in writing, which authorization may be withheld in SKSC's sole discretion.
- (b) Licensee acknowledges and agrees that Licensee is licensing the Premises on an "As-Is, Where-is" basis and the Licensor shall have no obligation whatsoever, except as required herein, to make any improvements to SK Property (or University Property) any time prior to or during the Term of this License.

- 3.04 **License in Premises.**

- (a) Subject to the terms and conditions of this License Agreement, and in consideration of the duties, covenants and obligations of Licensee hereunder, SKSC hereby grants to Licensee an exclusive license to demolish, install, operate, repair, modify, upgrade, alter, maintain, access and remove, at Licensee's sole expense and risk, the System and related solar communications fixtures, equipment, cables, appurtenances, utilities and improvements as may be needed from time to time by Licensee in

the Premises, all for the limited purpose of set forth in Exhibit 4. This License Agreement creates a license which is only terminable under the terms hereof. At all times throughout the term, and at no additional charge to Licensee, Licensee and its employee's agents and contractors shall have pedestrian and vehicular access to and over the Site for the installation, maintenance and operation of the System and any related utilities serving the Premises, subject to the terms and requirements hereof. Normal designated travel areas require no special permission but non-designated areas will require prior approval. Approval will not be unduly withheld. All vehicles must adhere to all normal SK parking regulations, including permitting.

- (b) The location of the System installed in the Premises shall be limited as set forth in the terms and conditions of this License Agreement, as amended from time to time.

Except as set forth in Section 5A.08, SKSC makes no warranty or representation that the property or the Premises are suitable for Licensee's use. Licensee has investigated the feasibility of the property and Premises for Licensee's business operations and use. Licensee has inspected the Premises and the property and, except as otherwise expressly provided herein, takes the same in "AS IS" condition (or has assumed the risk for failure to investigate) and agrees that, except as relating to providing fiber to the Premises as described in Section 5A.08 and 6.09 and utilities under Section 6.05, SK is under no obligation to perform any work or provide any materials to prepare the Premises or property for Licensee, but SKSC covenants and agrees to maintain the property in a reasonable manner in relation to the standard of other municipal/ State properties in the United States of comparable size and age. Notwithstanding the foregoing, should Licensee's investigations of particular locations disclose environmental or other site conditions that make those areas unsuitable for Licensee's installations, the parties will work in good faith to identify alternative locations for such installations and SKSC shall have no obligation to perform any work or provide any materials to prepare any such areas for Licensee's use.

3.05 **Relocation.** Intentionally Omitted

3.06 **Phased Construction.** The Parties hereto acknowledge and agree that construction of the System will occur in phases.

- (a) During the Start Up Period, Licensee will finalize the Plans and Specifications for the Phase I Construction (the "Phase I Plans and Specifications" as contained in Attachment C) and will present such Phase I Plans and Specifications to SK's Project Manager for SKSC's approval, such approval not to be unreasonably withheld, conditioned or delayed. SK'SCs review and approval process for the Phase I Plans and Specifications will proceed in good faith and include, without limitation, review and approval through the project review system in SK SC's Design and Construction Department and SKSC IT. After obtaining SKSC's approval, Licensee shall proceed with preparing the Premises for the constructing of the System in accordance with the Phase I Plans and Specifications, and the Parties hereto shall execute an amendment documenting the Premises as shown on the Phase I Plans and Specifications. In the event SKSC does not deliver approval or rejection of such Phase I Plans and Specifications within thirty (30) days of their submission, then such Plans and Specifications may be deemed approved by Licensee, or Licensee shall have the right, but not the obligation, to terminate this License Agreement on thirty days' notice to SKSC. Upon such termination by Licensee this License Agreement shall become null and void, and the Parties shall have no further obligations, including the payment of money, to each other. SK acknowledges and agrees that Licensee may operate Equipment installed pursuant to approved Phase I Plans and Specifications during the Start-Up Period. SKSC's "approval" is limited to their agreement with Licensee's approach only and will not relieve Licensee from any of their responsibilities to insure that the systems are installed and working properly. Proponents are advised that the three – (3) properties are Superfund landfills that have been closed (capped) under US Environmental

Protection Agency (USEPA) and RI Department of Environmental Management (RIDEM) requirements. Each landfill area incorporates a multi-layer cap with a gas collection system, impervious membrane and subsurface drainage layer. All equipment and utilities shall be an above grade ballasted type system. Penetrations or excavations into the multi-layer cap are expressly prohibited. Further, proponents are advised that side slope loading, and potential cap shearing may be a cause for concern, especially for the Rose Hill landfill site. As such, the proponent's design engineer shall be familiar with landfill cap design. Design plans shall be stamped by a Professional Engineer licensed by the State of Rhode Island.

Although USEPA and RIDEM are in support of landfill beneficial reuse, final project design shall be subject to approval by the SKSC, USEPA and RIDEM, to ensure protectiveness of the landfill caps and the general public. Institutional Controls (ICs) for each site are attached hereto for information of the proponents.

(b)

- (b) Upon implementation of the Phase I Construction, Licensee will finalize the Plans and Specifications for the Phase II Construction (the "Phase II Plans and Specifications" as contained in Attachment D) and will present such Phase II Plans and Specifications to SK's Project Manager for SKSC's approval, such approval not to be unreasonably withheld, conditioned or delayed. SKSC's review and approval process for the Phase II Plans and Specifications will include, without limitation, review and approval through the project review system in SKSC's Engineering, Facilities, Planning Department and SKSC IT. After obtaining SKSC's approval, Licensee shall proceed to build the enhancements to the System in accordance with the Phase II Plans and Specifications, and the Parties hereto shall execute an amendment documenting the Premises as expanded on the Phase II Plans and Specifications. In the event SKSC does not deliver approval of such Phase II Plans and Specifications within 60 days after Licensee present such Plans, Licensee shall have the right, but not the obligation, to withdraw such Phase II Plans and Specifications, and in such event, Licensee shall be deemed to have satisfied the coverage requirements under Article 5 of this License Agreement.

SKSC "approval" is limited to their agreement with Licensee's approach only and will not relieve Licensee from any of their responsibilities to insure that the systems are installed and working properly.

- (c) Upon implementation of the Phase II Construction, Licensee shall test the system and determine if the System is fully operational.
- (d) Upon completion of the Phase II Construction and the Licensors determining that the System is fully operation, the Licensors shall issue a certificate of completion and notice of the Commercial Operations Date. SKSC's determination is limited to determining Commercial Operations Date and will not relieve Licensee from any of their responsibilities to insure that the systems are installed and working properly.

3.07 **Access.** SKSC hereby grants to Licensee, its employees and/or agents, a license for the Term, as the Term may be extended pursuant to this License Agreement, for ingress to and egress from the nearest public rights of ways to the various portions of the Premises twenty-four hours a day, seven days per week, subject to SKSC's policies and the terms and conditions contained in this License Agreement. Access to the remote units of the System (as opposed to the Head-End Space) must be coordinated through SKSC on-call staff, a schedule for which will be provided to the Licensee. Such access shall also be granted for the purpose of design, construction, installation, upgrading, maintenance and repair of the System.

3.08 **Upgrade.** Licensee shall have the right to upgrade the System and implement new technologies and/or use different and additional spectrum on the property(s) to permit Licensee to better serve SKSC, provided that (i)

such actions by Licensee do not impair SKSC 's rights hereunder, materially increase Licensee's rights to use space on the property(s) beyond the locations identified on the Exhibits attached hereto, or result in any interference with other operations of SKSC at the property(s) existing at such time; and (ii) such actions by Licensee are undertaken in accordance with and are governed by the terms of this License Agreement. Prior to making upgrades to the System that would diminish service for more than one (1) hour which are outside of the maintenance window of 11pm to 6am, Licensee shall provide reasonable advance notice to SK's Project Manager for SK properties (David Lamb for University property) or designee. In the event that Licensee's upgrading of the System or implementation of new technologies or spectrum would involve an expansion of the Premises, then Licensee shall request SKSC's prior written approval, which shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, SKSC acknowledges and agrees that Licensee will have the right to conduct maintenance of the Equipment from time to time without need for consent from SKSC, subject to SKSC's policies and the terms and conditions contained in this License Agreement.

3.09 *Intentionally Omitted.*

3.10 **Licensee.** _____ is the Licensee and point of contact for SKSC under this License Agreement.

Article 4. License Fees

4.01 **Payment Obligation.** *T.B.D*

4.02 **License Fee.** *T.B.D*

4.03 **Payment Schedule.** *T.B.D*

4.04 **Payments.** *T.B.D*

4.05 **Taxes and Government Fees.** In addition to the fees required in Article 4 of this License Agreement, Licensee shall pay as the same become due all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against Licensee.

Article 5. The System and Installation

5.01 **Scope of Work.**

The major points of the scope of work of the hosting and System are summarized as follows:

- (a) Preparation of multiple location for the installation System.
- (b) Design, construct, maintain, market, and upgrade as needed a System located on the Premises.
- (c) Licensee must be sensitive to aesthetics on the property(s) and use elements that will blend the System into its surroundings. Part of SKSC's approval process for each phase of construction requires approval from SKSC.

5.02 *Intentionally Omitted.*

5.03 **System**

- (a) Coverage: The System shall be designed, so that upon completion of each of the two phases of construction the System shall meet the following criteria:
 - ***T.B.D***
- (b) Continuous Operation: The Licensee shall use commercially reasonable efforts to operate the System on a twenty four hour/7 days per week basis, subject to service interruption for ordinary maintenance and backup power failures.
- (d) Other than additions or upgrades requested by SKSC in writing after the execution of the Service Contract, the Licensee will not require SKSC to pay anything, including but not limited to, the System design, planning, construction, implementation, management, installation, utility placements and supporting infrastructure (electric meter loops, electrical conduit, building & fire code fees, physical plant alterations & improvement (A&I) fees, roof penetrations and patching, etc.), monitoring & maintenance, continual upgrading, and marketing.
- (e) Licensee must be sensitive to aesthetics of the Satellite property(s). During each phase, Licensee must provide renderings to SKSC of each proposed site as they would appear upon final installation. To clarify: drawings will be used to obtain approvals from SKSC. All construction related work will require a building permit, plans stamped by a registered professional engineer licensed by the State of Rhode Island, and will need to comply with the State building code.
- (g) ***T.B.D.***
- (h) The Licensee shall coordinate all activity and hardware installation that affects the use of fiber, conduit, and cable tray with SKSC's Information Technology Department.

5.04 **Preliminary Implementation Plan.**

The Licensee shall construct the System substantially in accordance with the construction schedule in Attachments C and D, subject to delays due to factors outside the control of the Licensee.

5.05 **Construction.**

5.05.1 **Construction Timetable.**

The Licensee's construction timetable shall reflect the specific method and schedule of construction of the System. The Licensee's plan shall reflect the following:

- (a) Detailed plan for any demolition and/or preparation required. A timetable reflecting when each stage of work shall be completed.
- (b) Location of all facilities including and any other required structures. A timetable reflecting when each stage of work shall be completed.
- (c) Licensee is solely responsible for obtaining all permits, licenses, certificates, approvals, and authorizations for construction activities in locations. Licensee will pay any expenses in connection with such permits.

- (d) The Licensee shall promptly notify SK's Project Manager of all delays known or anticipated in the construction, re-build, or extension of the System. SKSC may extend the construction timetable in the event the Licensee, acting in good faith, experience delays by reason of circumstances beyond their control.

In support of the Licensee, SKSC will provide the following:

- (e) ***T.B.D***
- (f) SKSC shall deliver to the Licensee the following documentation, if available:
- ***T.B.D***

5.05.2 Construction Standards.

Licensee must adhere to all federal state and local law, codes, and regulations for the presentation of the Phase I Plans and Specifications and for the installation, operation and maintenance of Equipment installed pursuant to the Phase I Plans and Specifications. SKSC acknowledges and agrees that notwithstanding anything to the contrary to federal, state and local codes and regulations, , Licensee shall not be obligated to modify plans or the current phase installation, operation or maintenance based on revisions to the SKSC arising after the date the applicable phase plans are presented to SKSC.

5.05.3 Construction Methodology.

All wires, conduits, cables and other equipment shall be constructed and installed by the Licensee in an orderly and workmanlike manner. Such wires, conduits, cables and other equipment when installed shall be concealed to the extent reasonably feasible and as shown on the Plans and Specifications for the corresponding phase. In any case no cable shall be run exposed (unless above a dropped ceiling) outside of an equipment/hub room unless specifically approved by SKSC.

5.05.4 Underground Infrastructure. As part of this License, SKSC may provide Licensee with space in its existing conduits and other underground pathways, to the extent reasonably necessary or appropriate, to operate, repair, modify, upgrade, alter or maintain the System and related communications utilities and fixtures.

5.05.5 Generator. Any proposed construction or placement of a generator or other similar equipment shall be subject to SKSC's approval (including, without limitation, approval by SKSC's Design and Construction Department), which approval may be obtained in the applicable phase plans and specification approval process. To the extent SKSC grants the Licensee permission to construct a generator or other similar equipment outside a building on ground level, then all utility connections between the exterior equipment and building shall be constructed subject to SKSC approval, in accordance with the version indicated in Section 5.05.2. No pole line construction or the direct buried method will be approved or provided by SKSC.

Article 5A. Equipment and Installation.

5A.01 **Construction Standards.** The System shall be constructed in an orderly and workmanlike manner and in accordance with the federal, state and local codes and/ or regulations.

5A.02 **Governmental Approvals.** It is understood and agreed that Licensee's ability to use the Premises and the System is contingent upon their obtaining at their sole cost and expense after the execution date of this License Agreement all of the certificates, permits, and other approvals (collectively the "Governmental Approvals") that

may be required by any federal, state or local authorities as well as a satisfactory building structural analysis and environmental analysis. SKSC shall cooperate with Licensee in its efforts to obtain such approvals and shall take no action that would adversely affect the status of the Premises with respect to the proposed use thereof. In the event that any of such applications for such Governmental Approvals should be finally rejected, or each Licensee (with respect to such Licensee's Equipment) or Licensee (with respect to the System) determines that any such Governmental Approvals may not be obtained in a timely manner or any Governmental Approval is canceled, expires, lapses, or is otherwise withdrawn or terminated by the relevant governmental authority or a Licensee determines that the Premises is no longer technically compatible for such Licensee's intended use, or that a Licensee, in its sole discretion, determines that the Licensee will be unable to use the Premises for its intended purposes, then Licensee shall have the right to terminate this License Agreement. Notice of Licensee's exercise of its right to terminate shall be given to SKSC pursuant to the Notice Section hereof. All License Fees paid prior to said termination date shall be retained by SKSC. Upon such termination by Licensee, this License Agreement shall become null and void and the Parties shall have no further obligations, including the payment of money, to each other.

5A.03 **Location of Equipment.** *T.B.D*

5A.04 **Installation.** SKSC hereby accepts the Preliminary Plans and Specifications attached hereto as Attachments C and D solely for purposes of entering into this License Agreement and commencing the Start-up Period. The System will be installed in phases in accordance with Section 3.06. Licensee shall make no material changes or alterations to the plans and specifications in effect under this License Agreement (the Preliminary Plans and Specifications, followed by the Phase I Plans and Specifications, followed by the Phase II Plans and Specifications without the prior approval of SKSC, which approval shall not be unreasonably withheld, conditioned or delayed. SKSC shall respond within thirty (30) days of receipt of any request for approval of a change to the plans and specifications in effect under this License Agreement or such change shall be deemed accepted. Subject to the terms and conditions herein, Licensee, at the Licensee's cost and expense, except as otherwise provided herein, shall install the System.

5A.05 **Marking of Equipment.** Licensee shall ensure that the System is identified with permanently marked, weather-proof labels, and that each Licensee's cables are so marked in each through any conduits which cables pass, at each polar panel bracket, at the transmission line entry point, at the interior wall feed-through or any other transmission line exit point, and at any transmitter combiner, duplexer or multifeed receive port, with such Licensee's name and the location where each cable originates and terminates.

5A.06 **Approval of Outside Contractors.** SKSC shall have the right to approve all outside contractors performing any work relating to the installation, modification, maintenance or removal of the Equipment on the property(s) on behalf of Licensee, which approval shall not be unreasonably withheld, conditioned or delayed. SKSC hereby acknowledges that Licensee has secured _____ as a primary contractor.

5A.07 **Location of Connecting Equipment.** Connecting Equipment shall be installed in accordance with the Plans and Specifications, which shall specifically show the location of all cabling, conduits and electronic equipment, and their connections with the remainder of Licensee's Equipment.

5A.08 **Interconnection.** *T.B.D*

5A.09 **Site Expansion** *T.B.D*

5A.10 **Parking.** *T.B.D*

5A.11 **As-Built Drawings.** Within 30 days of the execution of this License Agreement, Licensee shall deliver to SKSC as-built drawings, stamped by a RI Professional Engineer, of such installation. Upon delivery and acceptance by SKSC, such as-built drawings shall be attached hereto and incorporated herein as Attachment G.

5A.12 **Environmental Due Diligence.** Prior to constructing each phase in accordance with the applicable approved plans and specifications, Licensee shall work with SKSC to conduct environmental due diligence of the approved locations for the Premises for such phase. Licensee's environmental due diligence shall be conducted at Licensee's sole cost and expense. In the event such testing for any location produces results that are not acceptable to Licensee, in Licensee's sole judgment, Licensee shall have the right to modify the plans and specifications for such phase to provide for an alternative location instead of the location with unacceptable test results. The plans and specifications for such phase will then be revised to provide for the alternative location, which shall be subject to SKSC's approval, such approval not to be unreasonably withheld, conditioned or delayed. Licensee acknowledges and agrees that the results of any such environmental testing will only be utilized for Licensee's internal evaluations of the locations, unless otherwise required by applicable law.

SKSC hereby agrees that Licensee may conduct physical and geotechnical testing and environmental inspections, tests, collect samples of soil, water, soil vapor, indoor air, building materials and other substances, including in regard to painted surfaces, sufficient samples of paint by removing it from the structure for laboratory analysis, and perform any other environmental assessment activities that Licensee reasonably determines to be appropriate. Without limiting the generality of the foregoing, the Licensee and its representatives may drill into the soil, drill through pavement, remove reasonable amounts of soil, install and sample monitoring wells, and perform other tests, actions, procedures, and treatments to assess (A) the environmental condition of the Premises and (B) past or present compliance with all environmental, health and safety laws applicable to the Premises. Licensee and its agents shall undertake all activities on the Premises in compliance with applicable laws and shall use commercially reasonable efforts to minimize the extent and duration of any interference with SKSC's operations on the Premises. All activities in this paragraph are subject to SKSC's approval, such approval not to be unreasonably withheld, conditioned or delayed.

5A.13 **Installation, Sampling, and Removal.** SKSC shall cooperate with Licensee and its agents regarding all installation, monitoring, sampling, removal, and related activities that Licensee conducts on the Premises. SKSC shall cooperate in locating bSKed utilities and improvements on the Premises at the request of any agent or contractor of Licensee and shall assist the Licensee in avoiding impacts to such buried or concealed features. SKSC authorizes Licensee to obstruct temporarily, but for a reasonable period of time, access to, or use of, limited areas of the Premises for the purpose of safety, operation of equipment, testing and sampling activities, and installation or removal of monitoring wells. Licensee may use any electrical or other utility outlets or connections on the Premises to conduct its activities. Licensee shall ensure that Licensee agents remove their equipment and restore any part of the Premises that was affected by its activities to a condition that is substantially similar to its condition at the time immediately preceding the commencement of said activities. All activities in this paragraph are subject to SKSC's approval, such approval not to be unreasonably withheld, conditioned or delayed.

SKSC acknowledges and agrees that it is the sole and lawful owner of any samples that are taken during the activities undertaken pursuant to this License, and any investigation-derived media (i.e., drill cuttings, well purge water) generated by the investigation, and that this media may require off-site disposal based upon test results. SKSC agrees to execute all manifests as requested by Licensee for proper disposal. The cost of off-site disposal of media will be paid for by Licensee or the appropriate Licensee representative, not SKSC.

Article 6. Operation and Maintenance of System

- 6.01 **Design of System.** Licensee shall design, install, operate, manage, and maintain the System in accordance with the Plans and Specifications and the obligations under this License Agreement.
- 6.02 **Non-Discrimination.** The Licensee and any subcontractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion,

physical or mental handicap, or sexual orientation or a person who is a member of, applies to perform, or has an obligation to perform service in a uniformed military service of the United States, including the National Guard on the basis of that membership, application or obligation. The Licensee agrees to comply with all applicable Federal and State employment statutes, rules and regulations.

6.03 *Intentionally Omitted.*

6.04 *Intentionally Omitted.*

6.05 **Utilities.**

Electrical power to Premises and all improvements located thereon shall be provided by Licensee and at no cost to SKSC. Subject to SKSC's approval (including, without limitation, approval by SK's Manager), such approval not to be unreasonably withheld, conditioned or delayed, Licensee shall have the right to install permanent generators, or to the extent such permanent generators are not approved or are not feasible, Licensee are hereby permitted to install temporary back-up generators as needed. The location of any such permanent or temporary back-up generators shall be subject to the approval of SKSC (including, without limitation, approval by SK's Manager), which approval may be obtained in the applicable phase plans and specifications process.

6.06 **Maintenance of the System.** Licensee shall keep the System and all of its components in good working order throughout the term of the License Agreement. Licensee shall develop and implement a program for periodic maintenance of the System, to include a schedule for replacement and overhaul of system components. The maintenance program and day-to-day maintenance operations shall comply with industry practices in the telecommunications and information technology fields for networks comparable to the System. Licensee shall keep records of all of their maintenance and repair activities in accordance with standard industry practices, and shall provide such records to SKSC for the previous year upon request.

6.07 **Maintenance of Premises.** Except as otherwise provided herein, Licensee shall perform all required maintenance for those portions of the Premises that are used exclusively by Licensee. SKSC shall not be required to make repairs or improvements of any kind in the Premises. The Licensee shall be responsible to maintain the landfill cap to be free of vegetation (other than grasses) and free of erosion, scouring or other condition that would compromise the landfill cap. Any cap damage shall be promptly repaired in accordance with US Environmental Protection Agency (USEPA) and RI Department of Environmental Management (RIDEM) requirements. The Licensee shall also be responsible of perimeter security fence maintenance and security, including vegetation removal and maintenance.

6.08 **Quality of Repairs.** All repairs done by the Licensee or any subcontractor shall be in a good workmanlike manner in both materials and workmanship. All repairs shall be made in conformity with all applicable government rules and regulations.

6.09 **Operation.** Except as otherwise authorized by SKSC in writing, Licensee shall:

- (a) subject to the terms and conditions of this Agreement, operate the System continuously, except for periods of scheduled maintenance during the maintenance window set forth in Section 3.08, on the Campus from the Commercial Operations Date throughout the Term; and

- (b) not use the Property(s) for any illegal purpose or violate any statute, regulation, rule, or order of any governmental body, nor create or allow to exist any nuisance or trespass, nor do any act in or about the SK/ University Property(s), nor bring anything on SK/ University Property(s) that will in any way increase the SKSC insurance premiums.

- 6.10 **Compliance with Rules and Regulations.** Licensee covenants to use commercially reasonable efforts to assure SKSC that Licensee's employees and agents, while on the Property(s), shall comply with the State of Rhode Island's and SKSC's site rules, regulations, and Policies, including any applicable security policies (collectively, the "Policies") as established from time to time, provided that (a) such Policies will not materially alter the rights and obligations of Licensee under this License Agreement, (b) in the event of a conflict between the terms of the Policies and the terms of this License Agreement, the terms of this License Agreement will control (c) Licensee shall have received notice of any applicable rule or regulation or Policies not less than thirty (30) days before SKSC issues any notice of default for failure to abide by any such rule or regulation and (d) provided further that such site rules are customary and reasonable and uniformly applied and enforced.
- 6.121 **Key Personnel.** The Licensee shall not substitute key personnel assigned to the performance of this License Agreement without fifteen days prior written notice to SKSC.
- 6.12 **Care of Property.** Each Licensee agrees that it shall take proper care of SKSC property while performing this License Agreement and will reimburse SKSC for loss or damage of SKSC property to the extent caused by the negligence or willful misconduct of such Licensee.
- 6.13 **Contractor Personnel.** SKSC expects the Licensee and contractor personnel to behave in a respectful and appropriate manner. SKSC may at any time and solely at its own discretion require that the Licensee or sub-contractor remove any worker or employee assigned to this project from the site.

Article 7. Interference

- 7.01 **Non-Interference.** The operation of the Equipment shall not interfere with the mechanical or electrical systems of the SKSC property and/ or infrastructure, or the operation of any pre-existing radio or telecommunications equipment operated on or from SKSC property. If the operation of the System or the Equipment violates any of the foregoing terms or conditions of this Section, then, after SKSC has notified Licensee of such violation, Licensee will take all commercially reasonable steps necessary to correct and eliminate the violation. To the extent Licensee is unable to cure any violation caused by Licensee, Licensee shall voluntarily power down the portion of the Equipment causing the violation, except in any case for intermittent testing until such time as the violation is remedied. In the event of an interference or other emergency issue, SKSC may contact Licensee at the following phone number: [REDACTED] In no event will SKSC be entitled to terminate this Agreement or relocate the Equipment as long as Licensee is making a good faith effort to remedy the interference issue and SKSC agrees that SKSC and/or any other tenants of the SKSC's property(s) who currently have or in the future take possession of the property(s) will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing Equipment. The Parties acknowledge that there may not be an adequate remedy at law for noncompliance with the provisions of this Section and therefore, any Party shall have the right to seek equitable remedies, such as, without limitation, injunctive relief and specific performance.

Article 8. Default and Remedies

8.01 **Licensee Default.** Licensee shall be in default under the License Agreement should any one or more of the following circumstances occurs, each constituting a default ("Default"):

- (a) The Premises is not cleared
- (b) The Premises is deserted, vacated, or becomes unoccupied by Licensee and, in so being, causes a situation or circumstance which in the sole opinion of the Licensor is disadvantageous to Licensor from a business or legal perspective;
- (c) Insolvency of Licensee, including, but not limited to, Licensee becoming insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Licensee which has a similar effect (or, if any such actions are initiated by a third party, such action(s) is(are) not dismissed within ninety (90) days);
- (d) Licensee shall make an assignment for benefit of creditors;
- (e) A receiver is appointed for any of Licensee's assets;
- (f) Licensee breaches or fails to comply with any term, provision, condition, covenant, obligation of this License or any of the rules and regulations now or hereafter established by Licensee to govern the operation of the Premises; provided that such Default continues for fifteen (15) days after written notice for monetary defaults or thirty (30) days after written notice for nonmonetary defaults, and provided further that this Agreement shall not be terminated if the Default cannot reasonably be cured within thirty (30) days of such notice and such Licensee commences the cure within such thirty (30) day period and thereafter continuously and diligently pursues the cure to completion.

8.02 **SKSC Default.** In the event there is a default by SKSC with respect to any of the provisions of this License Agreement or its obligations under it, or in the event any representation or warranty made by SKSC herein shall prove to be false or incorrect, Licensee shall give SKSC written notice of such default. After receipt of such written notice, SKSC shall have thirty (30) days in which to cure any such default, provided SKSC shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and SKSC commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion.

8.03 **Remedies.** Upon a default by either party, the non defaulting party may at its option (but without obligation to do so) perform the defaulting party's duty or obligation on such party's behalf, including but not limited to, in the case of Licensee default, the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non defaulting party shall be due and payable by the other party upon invoice therefor. In the event of a default beyond all notice and grace periods provided hereunder, by either party with respect to a material provision of this License Agreement, without limiting the non defaulting party in the exercise of any right or remedy which it may have by reason of such default, the non defaulting party may terminate this License Agreement pursuant to Section 8.01 or Section 8.02, as applicable, and/or pursue any remedy now or hereafter available to it under the laws or judicial decisions of the State of Rhode Island; provided, however, such party shall use reasonable efforts to mitigate its damages in connection with such default.

8.04 **Transfer of Title.** The System is personal property of the Licensee and the Licensee at all times owns and controls them and may remove any portion of them at any time during the term. Licensor and Licensee agree, and Licensor shall so inform, any purchaser or mortgagee of the Premises, of this License Agreement and that all

Equipment forming a part of the System shall be and remain the property of Licensee under all circumstances, under Licensee's exclusive control, free and clear of any liens or encumbrances other than those permitted by Licensee, and shall be deemed to be and remain personal property and not part of the real estate on which the same are located.

If the Term expires and is not renewed or extended by Licensee or is terminated by Licensee for any reason permitted hereunder, then Licensee will, upon such termination or expiration, will be permitted to remove its Equipment. If the License Agreement is terminated for a Default by Licensee, at any time during the term, Licensee agrees that it will transfer title to and ownership of all Licensee's Equipment to Licensor at the time of such termination for a price equal to the depreciated value of such Equipment, using a twenty (20) year depreciation schedule. Such Equipment to be transferred in AS-IS, WHERE-IS condition without any warranty, express or implied. Any Licensee Equipment or improvements not removed by the Licensee within ninety (90) days after the expiration or earlier termination of the Term that shall be deemed abandoned.

- 8.05 **Re-entry by SKSC.** If this License Agreement is terminated because of a Default, beyond applicable notice and cure periods, by the Licensee, SKSC or its agents or employees may, upon thirty (30) days further written notice, or at any time thereafter, (i) re-enter the Premises and remove Licensee, Licensee's agents, subcontractors, invitees and property from the assigned Premises; and (ii) assume control over and continue the operation of the System and all associated Connecting Equipment. Re-entry and removal may be affected by summary dispossessory proceedings or by any suitable action or proceeding at law. SKSC shall not be liable in any way in connection with any action it takes pursuant to this subparagraph, except as may be provided by law.
- 8.06 **No Waiver.** The rights and remedies set forth herein shall be in addition to any other right and remedy now and hereafter provided by law. All rights and remedies shall be cumulative and not exclusive of each other. No delay by SKSC or Licensee in exercising a right or remedy shall constitute a waiver or acquiescence to a default. No waiver of a default shall be effective unless it is in writing. No waiver of a default shall extend or affect any other default, excuse future similar defaults, or impair any right or remedy with respect thereto.

Article 9. Assignment

- 9.01 **Assignment.** This License Agreement may not be sold, assigned or transferred by the Licensee or SKSC except as provided for in Exhibit 4.

Article 10. Representations, Warranties, and Covenants

- 10.01 **Representations, Warranties and Covenants of SKSC.** As material inducements to Licensee to enter into this License Agreement, SKSC represents, warrants and covenants to Licensee as follows as of the date of this License Agreement:
- (a) For the University property, the University is an Institute of Higher Education, validly existing, and in good standing under the laws of the State of Rhode Island.
 - (b) SKSC has the requisite power and authority to enter into this License Agreement, to carry out its obligations hereunder, and to grant to Licensee the licenses described in this License Agreement in accordance with the terms and conditions hereof.
 - (c) This License Agreement has been duly executed on behalf of SKSC by duly authorized officers of SKSC. To the knowledge of the SKSC officers signing this Agreement, SKSC has received no written notice of currently pending actions, suits, or arbitrations, at law or in equity, other than any action(s), suit(s) or arbitration(s) which

would not reasonably be expected to have a material adverse effect on the use of the Premises or any material portion thereof for Licensee's intended uses for a material period of time.

10.02 **Representations, Warranties and Covenants of each Licensee.** As material inducements to SKSC to enter into this License Agreement, each Licensee represents, warrants and covenants in favor of RI as follows:

- (a) Licensee acknowledges that the ability to use the Premises is contingent upon its obtaining all certificates, permits, licenses, and other approvals that may be required by any governmental authorities. SKSC shall, at no cost to it, use good faith efforts to cooperate with Licensee in its effort to obtain such certificates, permits, licenses, and other approvals. During the term of the License Agreement, SKSC agrees to sign such papers as are reasonably required to file applications with the appropriate governmental authorities for the proper certificates, permits, licenses, and approval as are required for the use of the Premises intended by the Licensee, provided, however, that Licensee may not file such applications as would impose any restrictions that would interfere with SKSC's current or reasonably anticipated future use of the its Property as a an institute of higher learning . Licensee will perform all other acts and bear all expenses associated with any zoning or other procedure necessary to obtain any certificate, permit, license, or approval for the Property deemed necessary by Licensee. University agrees not to register any written or verbal opposition to any such procedures that comply with this paragraph. Licensee has the requisite power and authority to enter into this License Agreement, to carry out its obligations hereunder, and to license from SKSC the Premises in accordance with the terms and conditions hereof.
- (b) This License Agreement has been duly executed on behalf of Licensee by a duly authorized officer of Licensee.
- (c) Licensee is a duly organized, validly existing _____ corporation.
- (d) Neither the execution and delivery of this License Agreement nor performance by Licensee in compliance with the terms of this License Agreement will result in a breach of the terms and conditions of or constitute a default under the organizational and governance documents of Licensee.
- (e) No consent or approval which has not otherwise been obtained is required by virtue of the execution hereof by Licensee or the consummation by Licensee of any of the transactions and obligations contemplated herein in order to avoid violation, breach of, default under, or the creation of a lien on assets of Licensee pursuant to the terms of any regulation, order, decree, or award of any court or governmental agency or any lease, contract, mortgage, note or any other instrument to which Licensee is a party or by which Licensee is bound or to which Licensee or any of its property is subject.
- (f) Licensee shall not introduce, use, generate, store, or dispose of any Hazardous Materials on the Site or Licensors's Surrounding Property. For purposes of this License Agreement, "Hazardous Materials" shall mean petroleum or any petroleum product, asbestos, and any other substance, chemical, or waste that is identified as hazardous, toxic, or dangerous in any applicable Federal, State, or Local law, rule or regulation. Notwithstanding the above, the Licensee may store generator fuel, batteries and the like in pre-approved locations, so long as such materials are used, stored and maintained in compliance with Industry standards, SK policy and any applicable laws.
- (g) To the knowledge of Licensee's officer signing this License Agreement, no legal action has been filed by any state or federal governmental authority against the Licensee that purports to affect or pertain to this License Agreement or any of the transactions contemplated hereby.
- (h) Each and every representation and warranty by Licensee contained in this License Agreement is true and correct as of the date hereof and shall be and remain true and correct during the Term.

Article 11. Casualty, Condemnation, Indemnification and Insurance

- 11.01 **Casualty**. If the Site or the Premises or the means of access thereto is damaged by casualty, fire, flood, tornado or other action of the elements, the damage (except to any equipment which may have been placed in or upon the Sites or the Premises by or at the expense of the Licensee) will be repaired by SKSC, subject to an appropriation being made therefor, unless this License Agreement is terminated as hereinafter provided.

License Fees, until such repairs are made, will be abated in proportion to the portion of the Site and the Premises which are unusable for Licensee's activities. If the damage is so extensive as to render the Site or the System or the Equipment wholly unusable for Licensee's activities, the License Fees will abate until such time as the Site or the Premises have been made usable for such activities. If the damage by casualty, fire, flood, tornado or by other action of the elements substantially amounts to the destruction of the Site or the System or the Equipment, either SKSC or Licensee may elect to terminate this License Agreement by giving written notice to the other Party. Licensee shall have the right to enter the Premises during the rebuilding or reconstruction to repair, restore or install the Equipment or the System in accordance with this License Agreement.

In case of damage to the Property(s) or the Premises, or to the means of access thereto, by casualty, fire, flood, tornado or any other action of the elements, the Party first becoming aware of such damage shall give prompt notice thereof to the other Party. In the event of damage by casualty, fire, flood, tornado or other action of the elements to the Property(s) or the System or the Equipment that cannot reasonably be expected to be repaired within forty-five (45) days following same, or if the Property(s) or the System or the Equipment is damaged by such events so that such damage may reasonably be expected to disrupt Licensee's operations for more than forty-five (45) days, then Licensee may at any time following such damage, provided SKSC has not completed the restoration required to permit Licensee to resume their operations, terminate this Agreement upon fifteen (15) days written notice to SKSC. Any such notice of termination shall cause this License Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make appropriate adjustment, as of such termination date, with respect to payments due to the other under this License Agreement.

- 11.02 **Eminent Domain**. If any material part of the Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, then at the option of either SKSC or Licensee, this License Agreement shall be cancelled and all Parties shall be relieved of all obligations herein imposed. Should this License Agreement be so cancelled, then Licensee shall have no claim against SKSC and shall not have any claim or right to any portion of the amount that may be awarded as damages or paid as a result of such involuntary conversion whether brought about by suit or agreement for the cancellation of such License Agreement or for Licensee's interest; any and all of such amounts shall belong to SKSC and all rights of Licensee to damages therefor, if any, are hereby assigned by Licensee to SKSC. Licensee shall, however, have the right to claim and recover from the condemning authority, but not from SKSC, and only to the extent that such recovery by Licensee will not diminish the amounts recoverable by SKSC, such compensation as may be separately awarded or recoverable by Licensee in Licensee's own right on account of any and all damage to Licensee by reason of the condemnation and for or on account of any cost or loss which Licensee might incur in removing the System or the Equipment and relocating the System or the Equipment to other premises.

- 11.03 **Indemnification**. The Licensee shall defend, indemnify, and hold harmless the Indemnified Parties from and against any and all claims, liability, losses, third party claims, damages, costs, or expenses (including attorneys' and experts' fees) arising out of or resulting from the performance of the services performed by the Licensee, its agents, servants, employees, or contractors under this License, provided that any such claims, liability, losses, third party claims, damages, costs, or expenses are attributable to bodily injury, personal injury, pecuniary injury, damage to real or tangible personal property, resulting therefrom and caused in whole or in part by any intentional or negligent acts or omissions of the Licensee, its employees, servants, agents, or contractors. The

foregoing express obligation of indemnification shall not be construed to negate or abridge any other obligation of indemnification running to the State of Rhode Island and/or SKSC that would otherwise exist. SKSC shall give Licensee prompt and timely notice of any claims, threatened or made, or any law suit instituted against it which could result in a claim for indemnification hereunder. The extent of this License of indemnification shall not be limited by any obligation or any term or condition of any insurance policy. The obligations set forth above shall survive the expiration or termination of this License. Licensee shall cause its subcontractors and hired parties to indemnify the Indemnites to the same extent Licensee is required to indemnify the Indemnites.

Licensee shall purchase and maintain at its sole cost and expense throughout the term of the License Agreement adequate insurance coverage. Licensee shall cause the other carries and any subcontractors and other hired parties to maintain throughout the term of the License Agreement adequate insurance coverage. Such insurance must include but is not limited to the following types and amounts of coverage:

11.04 **Insurance Requirements.**

(1) The Licensee shall collectively procure and maintain at their expense during the Term the following insurance coverage from an insurance company or companies qualified to do business in the State of Rhode Island. SKSC shall be included as an additional insured on all policies except Workers' Compensation and Employer's Liability. Upon receipt of notice from its insurer(s), Licensee will use best efforts, to provide thirty (30) days advance notice to SKSC of cancellation or non-renewal of a given policy. SK , at its reasonable discretion, may waive any of the foregoing insurance requirements. All of Licensee's policies shall be primary as relates to their operations and agrees that any insurance maintained by SKSC shall be excess of and non-contributing with respect to the Licensee's insurance in this regard. Licensee shall cause its subcontractors and hired parties to purchase, carry, and maintain all insurance coverage and limits that this Insurance Section (11.04) requires Licensee to have. Licensee's and/or Licensee's subcontractor's failure to provide or to continue in full force the insurance that this section requires.

The Licensee shall purchase and maintain at its sole cost and expense throughout the term of the License Agreement adequate insurance coverage. The Licensee shall cause any subcontractors and other hired parties to maintain at throughout the term of the License Agreement adequate insurance coverage. Such insurance must include but is not limited to the following types and amounts of coverage:

- (a) **Comprehensive Automobile Liability**
Automobile Liability Insurance covering owned, non-owned, and hired vehicles with combined limits for bodily injury and property damage of at least one million dollars (\$1,000,000) per accident. The policy must be endorsed to include the Indemnites as additional insureds.
- (b) **Commercial General Liability**
Commercial General Liability Insurance including premises and operations liability, products and completed operations liability, personal and advertising injury, independent/subcontractor liability, and contractual liability coverage, written on an occurrence form, with combined limits for bodily injury, personal injury, and property damage of at least two million dollars (\$2,000,000) per occurrence, two million dollars (\$2,000,000) personal and advertising injury, three million dollars (\$3,000,000) products and completed operations aggregate and three million dollars (\$3,000,000) general aggregate. Coverage shall be in form no less broad than the most recent version of ISO CG 00 01 with no exclusionary endorsements material to the Licensee's obligations under the Contract for Services. The policy must be endorsed to include the Indemnites as additional insureds.
- (c) **Workers' Compensation and Employer's Liability**
Workers' Compensation Insurance in compliance with applicable federal and state laws in which

work is performed, in which employees reside or through which employees may travel in the course of the Contract, including Employers Liability Insurance with limits of at least one million dollars (\$1,000,000) per accident, one million dollars (\$1,000,000) by disease- policy limit and one million dollars (\$1,000,000) by disease- each employee.

- (2) Licensee shall provide SKSC with a valid certificate of insurance within ten (10) days after this Agreement is fully executed exhibiting coverage as required herein. In addition, prior to commencing any work pursuant to this License Agreement, any subcontractor of any Licensee shall provide SKSC a valid certificate of insurance exhibiting coverage, as applicable, as required herein. These certificate(s) of insurance shall be provided on the industry standard form (ACORD 25) or equivalent and the contract number shall be listed on the Certificate of Insurance and issued to: SKSC 's Contract Administrator.
- (3) All insurance maintained by the Licensee pursuant to this License Agreement shall be written by insurance companies licensed to do business in the State of Rhode Island. All insurance companies to be used by the Contractor must have a Best's Rating of not less than A- and be reasonably acceptable to SKSC and Licensee.
- (4) Professional Liability Insurance, Coverage shall apply to liability for a professional error, act, or omission arising out the Licensee's services in limits not less than two million dollars (\$2,000,000) per claim annual aggregate. If coverage is written on a claims-made basis, any retroactive date shall be no later than the effective date of the License Agreement, and continuous coverage will be maintained or an extended discovery period will be exercised for a period of six (6) years beginning from the time that work under the License Agreement is complete, whichever is later. This obligation shall survive the expiration or termination of this License Agreement. These obligations shall survive the expiration or termination of this License Agreement.
- (5) All insurance maintained by the Licensee shall provide that insurance for the benefit of the Indemnitees shall be primary and the Indemnitees' own insurance shall be non-contributing.
- (6) Licensee shall cause subcontractors to provide Property Insurance covering System at replacement cost using special form causes of loss.
- (7) The foregoing notwithstanding, whether the cause of any damage, loss or liability is insurable, insured or not insured, foreseen or unforeseen, in no event shall either party be responsible or liable to the other party for anticipatory profits or any indirect, special, incidental or consequential damages of any kind or nature arising directly or indirectly in connection with the construction, use or operation of the Premises or the exercise of any rights related thereto, whether based on an action or claim in contract or tort, including negligence, strict liability or otherwise.
- (8) The Licensee shall maintain a valid Certificate of Insurance (COI) with policy limits acceptable to the Purchaser for the duration of the contract. The COI shall state the "Town or South Kingstown named as an additional insured" for Town owned parcels and shall state the "University of Rhode Island named as an additional insured" for the University of RI property.

Article 12. Miscellaneous

- 12.01 **Governing Law.** This Contract is entered into in the State of Rhode Island, and the laws of the State of Rhode Island, without giving effect to its conflicts of law principles, govern all matters arising out of or relating to this Contract and all of the transactions it contemplates, including, without limitation, its validity, interpretation, construction, performance and enforcement.

12.02 **Forum Selection.** The Parties agree to bring any action arising out of or relating to this Contract or the relationship between the Parties in the state courts of the State of Rhode Island which shall have exclusive jurisdiction thereof. Licensee expressly consents to the jurisdiction of the state courts of the State of Rhode Island in any action brought by the State of Rhode Island or SKSC arising out of or relating to this Contract or the relationship between the Parties, waiving any claim or defense that such forum is not convenient or proper. This paragraph shall not be construed to limit any other legal rights of the Parties.

12.03 **Notices.** All notices to be given to the Parties hereto shall be in writing unless otherwise stated and shall be properly given when personally delivered to the address specified below and left with a responsible person, or delivered by overnight service such as Federal Express, and, in both instances, an appropriate receipt is obtained, or when sent by registered or certified mail addressed to the Parties at their respective addresses specified in the License Agreement. The Parties may change the below information upon thirty (30) days written notice given as herein specified. The date of notice shall be deemed, when notice is mailed, to be the date of mailing so long as the Postal Service certified actual delivery. A refusal of overnight service or a registered or certified mail notice shall constitute actual delivery hereunder.

To SK: Jon Schock- Director of Public Services
Town of South Kingstown
Department of Public Services
509 Commodore Perry Hwy
Wakefield, RI 02879
PH: (401) 789-9331, ext. 2250
FAX: (401) 782-8068
Email: jschock@southkingstownri.com

To Licensee:

12.04 **Approvals.** Whenever this Agreement calls for approval by a Party to this License Agreement, such approval shall be deemed to require reasonable and timely decisions of said Party.

12.05 **Risk of Loss.** The Licensee shall bear the risk of loss of any Licensee materials and equipment used in constructing, maintaining or repair of the System System.

12.06 **Compliance with Laws.** The Parties hereto each agree to comply with all applicable local, state, and federal laws, regulations and ordinances in the performance of their respective obligations under this Agreement.

12.07 **Conflict of Interest.** Licensee acknowledges that it may be subject to the Rhode Island Conflict of Interest statute [Insert Statutory Reference], and to that extent, Licensee agrees to comply with all requirements of the statute in the performance of this Contract.

12.08 **Independent Contractors.** SKSC and Licensee acknowledge and agree that the relationship between them is solely that of licensor and licensee, and nothing shall be construed to constitute the Parties as employer and employee, partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking.

12.09 **Force Majeure.** Neither party shall be liable to the other or be deemed to be in breach of this License for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of nature or of a public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather. Dates or times of

performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

- 12.10 **Certification.** Licensee certifies under the pains and penalties of perjury that pursuant to [Insert RI statutory reference], that the Licensee has filed all state tax returns, paid all taxes and complied with all applicable laws relating to taxes; and that pursuant to [Insert RI statutory reference], have complied with all laws of the State of Rhode Island relating to contributions and payment in lieu of contributions to the Employment Security System; and, if applicable, with all laws of the State of Rhode Island relating to Worker's Compensation, [Insert RI statutory reference] and payment of wages, [Insert RI statutory reference]. Pursuant to federal law, Licensee shall verify the immigration status of all workers assigned to the contract without engaging in unlawful discrimination; and Licensee shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker. Notwithstanding the above, this section is subject to any exceptions disclosed that might be applicable to the status of the Licensee's tax filings and payments at the time this Contract is entered.
- 12.11 **Subcontracts.** Licensee is fully responsible for all work performed under License Agreement by its subcontractors. The Licensee may, with the prior written consent of SKSC, such consent not to be unreasonably withheld, conditioned or delayed, enter into written subcontracts for performance of certain of its functions under the License Agreement. No subcontract shall be implemented or effective until approved in writing by SKSC as noted above. No subcontracts, which a Licensee enters into under the License Agreement, shall in any way relieve such Licensee of any responsibility for performance of its duties under this License Agreement. Licensee is responsible to fully notify its subcontractors, if any, of their responsibilities under any subcontract. All payments to subcontractors shall be the sole responsibility of the Licensee.
- 12.12 **Employment of SKSC Personnel.** The Licensee shall not, without SKSC's prior written consent, knowingly recruit for engagement, on a full time, part time, or other basis during the period of this License Agreement, any individuals who are SKSC employees.
- 12.13 **Nondiscrimination in Employment.** The Licensee shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap, or sexual orientation or a person who is a member of, applies to perform, or has an obligation to perform service in a uniformed military service of the United States, including the National Guard on the basis of that membership, application or obligation. The Licensee agrees to comply with all applicable Federal and State employment statutes, rules and regulations.
- 12.14 **Waiver.** All conditions, covenants, duties and obligations contained in this License Agreement can be waived only by written agreement. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party.
- 12.15 **Confidentiality.** Subject to applicable law, the parties each shall use reasonable efforts to protect the confidentiality of any files, data or other materials provided to them by the other party in connection with this License Agreement or the System and shall use reasonable care to restrict their use to purposes of performing this License Agreement. The Licensee shall take reasonable steps necessary to safeguard any data, files, reports or other information in Licensee's possession from loss, destruction or erasure. Neither party shall use the name, trademarks or non public information concerning the other in any publicity or otherwise without the prior written consent of the other party.
- 12.16 **Tax Exempt Status.** SKSC is exempt from federal excise, state, and local taxes; therefore, sales to SKSC are exempt from Rhode Island sales and use taxes. If SKSC should become subject to any such taxes during the term of this License, SKSC shall reimburse the Licensee for any cost or expense incurred. Any other taxes imposed on the Licensee on account of this License shall be borne solely by the Licensee.
- 12.17 **Severability.** If any provision of this License Agreement is contrary to, prohibited by, or deemed invalid by

applicable laws or regulations of any jurisdiction in which it is sought to be enforced, then said provision shall be deemed inapplicable and omitted and shall not invalidate the remaining provisions of this License Agreement.

- 12.18 **Ambiguities.** If any term of this License Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write the License Agreement.
- 12.19 **Headings.** Headings contained in this License Agreement are for reference purposes only and shall not be considered to be a substantive part of this License Agreement.
- 12.20 **Counterparts.** This License Agreement may be executed in any number of counterparts, which, taken together shall constitute but one and the same License Agreement. Delivery of executed counterparts by facsimile or email shall be effective as an original.
- 12.21 **Amendments.** Any amendment or modification to this agreement must be in writing and signed by a duly authorized officer of each of the Parties.
- 12.22 **Entire Agreement.** The Parties hereto understand and agree that this License Agreement (including all Exhibits) and amendments (if any) constitute the entire understanding between the Parties and supersede all other verbal and written agreements and negotiations by the Parties relating to the services under this License Agreement. The Parties executing this License Agreement represent that they have full authority to execute this License Agreement on behalf of the entity for which they are acting.
- 12.23 **Quiet Enjoyment.** SKSC covenants that upon Licensee's observation and performance of all the terms, covenants and provisions of this License on Licensee part to observe and perform, Licensee shall peaceably and quietly have, hold and enjoy the Premises, subject nevertheless to the terms and conditions of this License. SKSC further covenants that it is seized of good and sufficient title and interest to the Premises and has full authority to enter into this License Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this License Agreement as of the day and year first written above.

South Kingstown

Licensee:

Signature: _____

Signature: _____

Printed Name: Stephen A. Alfred _____

Printed Name: _____

Title: Town Manager _____

Title: _____

Date: _____

Date: _____

Solar Power Purchase Agreement

This Solar Power Purchase Agreement (this “**Agreement**”) is entered into by the parties listed below (each a “**Party**” and collectively the “**Parties**”) as of the date signed by Seller below (the “**Effective Date**”).

Purchaser:	South Kingstown	Seller:	
Name and Address	Jon Schock Town Hall 180 High St. Wakefield, RI 02879	Name and Address	
Phone	401-789-9331 ext. 2250	Phone	
Fax	401-782-8068	Fax	
E-mail	jschock@southkingstownri.com	E-mail	
Premises Ownership	City of South Kingstown		

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in **Exhibit 2** (the “**System**”) and installed at the Purchaser’s Premises or facilities described in **Exhibit 2** (the “**Premises**”).

The exhibits listed below are incorporated by reference and made part of this Agreement.

Exhibit 1	Pricing Attachment
Exhibit 2	System Description, Delivery Point and Premises
Exhibit 3	[Not Applicable]
Exhibit 4	General Terms and Conditions
Exhibit 5	Monitoring System Specifications
Exhibit 6	Operations and Maintenance Guide
Exhibit 7	Additional Terms
Exhibit 8	System License Agreement
Exhibit 9	Performance Warranty

Purchaser: South Kingstown

Seller:

Signature: _____

Signature: _____

Printed Name: Jon Schock

Printed Name: _____

Title: Public Services Director

Title: _____

Date: _____

Date: _____

Exhibit 1
Pricing Attachment

1. Term:

2. Contract Price:

Contract Year	\$/kWh (AC)
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	

3. Termination Value Schedule

[To Be Inserted if Applicable]

4. Condition Satisfaction Date:

5. Anticipated Commercial Operation Date:

6. Outside Commercial Operation Date:

Exhibit 2

System Description, Delivery Point and Premises

1. System Location:

2. System Size (kW (DC)):

3. Expected First Year Energy Production (kWh (AC)):

4. Expected Structure:

[Insert Design Specifications]

5. Includes:

[List items/equipment components included in Solar System]

6. Excludes:

[List items not included in Solar System]

9. Delivery Point and Premises: Schematics inserted below contains the following:

(i) Premises;

(ii) array;

(iii) Delivery Point(s); and

(iv) access points needed to install and service System (bldg access, electrical room, stairs etc.)

Exhibit 3

Credit Information

[NOT APPLICABLE]

Exhibit 4

Solar Power Purchase Agreement General Terms and Conditions

1. **Purchase and Sale of Electricity.** Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the electric energy generated by the System during the Term (as defined in **Exhibit 1**). Electric energy generated by the System will be delivered to Purchaser at the delivery point(s) identified on **Exhibit 2** (the “**Delivery Point(s)**”). Purchaser shall take title to the electric energy generated by the System at the Delivery Point(s), and risk of loss will pass from Seller to Purchaser at the Delivery Point(s). Purchaser may purchase electric energy for the Premises from other sources if the Purchaser's electric requirements at the Premises exceed the output of the System.
2. **Term.** The Term of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in **Exhibit 1**, unless earlier terminated as provided for in this Agreement. The “**Commercial Operation Date**” is the date Seller gives Purchaser written notice that the System is mechanically complete and capable of providing electric energy to the Delivery Point and all conditions have been met to permit such delivery. Upon Purchaser's request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller's contractor and the interconnection or similar agreement with the Utility. Purchaser shall not prevent Seller from installing the System or otherwise performing under this Agreement.
3. **Billing and Payment.**
 - a. **Monthly Charges.** Purchaser shall pay Seller monthly for the electric energy generated by the System and delivered to the Delivery Point(s) at the \$/kWh (AC) rate shown in **Exhibit 1** (the “**Contract Price**”). The monthly payment for such energy will be equal to the applicable \$/kWh (AC) rate multiplied by the number of kWh (AC) of energy generated during the applicable month and delivered to Purchaser, as measured by the System meter.
 - b. **Monthly Invoices.** Seller shall invoice Purchaser monthly. Such monthly invoices shall state (i) the amount of electric energy produced by the System and delivered to the Delivery Point, (ii) the rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser.
 - c. **Taxes.** Purchaser is exempt from federal, excise, state, and local taxes; therefore, sales to Purchaser pursuant to this Agreement are exempt from sales and use taxes. Any Taxes imposed on Seller on account of this Agreement or assessed on the System shall be borne solely by Seller. If Purchaser should become subject to any such Taxes during the term of this Agreement, Purchaser shall reimburse Seller any cost or expense incurred by Seller in connection therewith. For purposes of this **Section 3(c)**, “**Taxes**” means any federal, state and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges or other similar charges, including income taxes or similar taxes imposed on Seller's revenues due to the sale of energy under this Agreement.
 - d. **Payment Terms.** All amounts due under this Agreement shall be due and payable net thirty (30) days from receipt of invoice. Any undisputed portion of the invoice amount not paid within the thirty (30) day period shall accrue interest at rates established by the State of Rhode Island in accordance with Chapter 11.1, Title 42 of the General Laws of Rhode Island (“**Interest Rate**”).
4. **Environmental Attributes and Environmental Incentives.**

Unless otherwise specified on **Exhibit 1**, Seller is the owner of all Environmental Attributes and Environmental Incentives and is entitled to the benefit of all Tax Credits, and Purchaser's purchase of electricity under this Agreement does not include Environmental Attributes, Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the System, all of which shall be retained by Seller. Purchaser shall cooperate with Seller in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives and Tax Credits. Purchaser shall not be obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Seller. If any Environmental Incentives are paid directly to Purchaser, Purchaser shall immediately pay such amounts over to Seller.

“**Environmental Attributes**” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System and its displacement of conventional energy generation, including (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂),

methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Environmental Incentives and Tax Credits. Purchaser and Seller shall file all tax returns in a manner consistent with this Section 5. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, investment credits, emissions allowances, green tags, tradeable renewable credits and Green-e® products.

“Environmental Incentives” means any credits, rebates, subsidies, payments or other incentives that relate to self-generation of electricity from the System, the use of technology incorporated into the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the System or any Governmental Authority; provided, however, that beneficial changes to local electric distribution company tariffs, grants from foundations or organizations like Efficiency Maine, credits, rebates, subsidies or payments intended to reimburse Buyer for costs it has incurred for actions undertaken under this Agreement and any credits, rebates, subsidies, payments or other incentives available solely to educational institutions shall not be considered an “Environmental Incentive.”

“Governmental Authority” means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission or the Rhode Island Public Utilities Commission), or any arbitrator with authority to bind a party at law.

“Tax Credits” means any and all (i) investment tax credits, (ii) production tax credits and (iii) similar tax credits or grants under federal, state or local law relating to the construction, ownership or production of energy from the System.

5. Conditions to Obligations.

a. Conditions to Seller's Obligations.

Seller's obligations under this Agreement are conditioned on the completion of the following conditions to Seller's reasonable satisfaction on or before the Condition Satisfaction Date:

- i. Completion of a physical inspection of the Premises including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Premises and the Premises for the System;
- ii. Approval of this Agreement by Seller's Financing Parties;
- iii. Confirmation that Seller will obtain all applicable Environmental Incentives and Tax Credits;
- iv. Receipt of all necessary zoning, land use and building permits and the consent set forth in subsection (b)(ii) below;
- v. Execution of all necessary agreements with the Utility for interconnection of the System to the Utility's electric distribution system; and
- vi. Prior to Seller commencing construction and installation of the System, Purchaser shall give Seller proof of insurance for all insurance required to be maintained by Purchaser under this Agreement.

b. Conditions to Purchaser's Obligations.

Purchaser's obligations under this Agreement are conditioned on:

- i. The occurrence of the Commercial Operation Date for the System on or before the Outside Commercial Operation Date (See **Exhibit 1**); and

- ii. Receipt, to Purchaser's reasonable satisfaction, of all required regulatory approvals for installation of electric distribution facilities necessary to interconnect the System on or before the Condition Satisfaction Date.
- iii. Seller shall give Purchaser proof of insurance for all insurance required to be maintained by Seller under this Agreement.

c. Failure of Conditions.

If any of the conditions listed in subsections a or b above are not satisfied by the applicable dates specified in those subsections, the Parties will attempt in good faith to negotiate new dates for the satisfaction of the failed conditions. If the parties are unable to negotiate new dates then the Party that has not failed to meet an obligation may terminate this Agreement upon ten (10) days written notice to the other Party without liability for costs or damages or triggering a default under this Agreement.

6. Seller's Rights and Obligations.

a. Permits and Approvals. Seller, with Purchaser's reasonable cooperation, shall use commercially reasonable efforts to obtain, at its sole cost and expense:

- i. any zoning, land use and building permits required to construct, install and operate the System; and
- ii. any agreements and approvals from the Utility necessary in order to interconnect the System to the Utility's electric distribution system.

Seller shall provide Purchaser with copies of any applications or requests for such agreements, permits and approvals prior to submitting such applications or requests to the affected entity and shall not submit such applications or requests without the consent of Purchaser, which consent shall not be unreasonably withheld or delayed. Purchaser shall cooperate with Seller's reasonable requests to assist Seller in obtaining such agreements, permits and approvals.

b. Standard System Repair and Maintenance. Seller shall construct and install the System at the Premises. During the Term, Seller will operate and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, except for any repairs or maintenance resulting from Purchaser's negligence, willful misconduct or breach of this Agreement. Seller shall use commercially reasonable efforts to comply with the Operations and Maintenance Plan and Schedule attached as **Exhibit 6**. Seller shall not be responsible for any work done by others on any part of the System unless Seller authorizes that work in advance in writing. Seller shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by anyone other than Seller or Seller's contractors. If the System requires repairs for which Purchaser is responsible, Purchaser shall pay Seller for diagnosing and correcting the problem at Seller or Seller's contractors' then current standard rates. Seller shall provide Purchaser with reasonable notice prior to accessing the Premises to make standard repairs.

c. Non-Standard System Repair and Maintenance. If Seller incurs incremental costs to maintain the System due to conditions at the Premises resulting from Purchaser's negligence, willful misconduct or breach of this Agreement or due to the inaccuracy of any information provided by Purchaser and relied upon by Seller, the pricing, schedule and other terms of this Agreement will be equitably adjusted to compensate for any work in excess of normally expected work required to be performed by Seller. In such event, the Parties will negotiate such equitable adjustment in good faith.

d. Breakdown Notice. Seller shall notify Purchaser within twenty-four (24) hours following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays.

e. Suspension. Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of electricity from the System to the Delivery Point(s) for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in service to the Purchaser.

f. Use of Contractors and Subcontractors. Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement. However, Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors. If a list of pre-approved contractors and subcontractors is desired,

such list shall be scheduled on an appendix to this Exhibit. All contractors and subcontractors, other than those that may be scheduled on an appendix to this Exhibit, shall be subject to Purchaser's prior written consent, not to be unreasonably withheld.

- g. **Liens and Payment of Contractors and Suppliers.** Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under this Agreement and shall keep the Premises free and clear of any liens related to such charges, except for those liens which Seller is permitted by law to place on the Premises following non-payment by Purchaser of amounts due under this Agreement. Seller shall indemnify Purchaser for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Premises or the Premises in connection with such charges; provided, however, that Seller shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Premises and the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Premises and the Premises.

h. **Separate Warranty.**

- i. The Limited Warranty that Seller is providing to Purchaser is set forth in Exhibit 9.
- ii. Except as set forth in Exhibit 9, NO WARRANTY OR REMEDY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY UNDER THIS AGREEMENT. The remedies set forth in this Agreement shall be Purchaser's sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise.
- i. Seller acknowledges that Purchaser has an educational mandate and desires to organize periodic tours of the Premises for interested faculty, staff, students, and others for educational purposes. Seller shall make commercially reasonable efforts to cooperate with Purchaser and to accommodate Purchaser's reasonable requests to tour the Premises, Purchaser's development of classroom or laboratory courses and/or Purchaser providing scholarship or internship opportunities to Purchaser's students focused on the Premises. Any scholarship or internship programs shall be mutually agreeable to both parties and shall be at no cost or expense to Seller.

7. **Purchaser's Rights and Obligations.**

- a. **Premises Access Rights.** Purchaser grants to Seller and to Seller's agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the "**System License**"), as set forth in Exhibit 8 to this Agreement.
- b. **OSHA Compliance.** Both parties shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws or codes are adhered to in their performance under this Agreement.
- c. **Maintenance of Premises.** Purchaser shall, at its sole cost and expense, maintain the Premises in good condition and repair. Purchaser will ensure that the Premises remains interconnected to the local utility grid at all times and will not permit cessation of electric service to the Premises from the local utility. Purchaser is fully responsible for the maintenance and repair of the Premises's electrical system and of all of Purchaser's equipment that utilizes the System's outputs. Purchaser shall properly maintain in full working order all of Purchaser's electric supply or generation equipment that Purchaser may shut down while utilizing the System. Purchaser shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System. The Purchaser shall be responsible to maintain the landfill cap to be free of vegetation (other than grasses) and free of erosion, scouring or other condition that would compromise the landfill cap. Any cap damage shall be promptly repaired in accordance with US Environmental Protection Agency (USEPA) and RI Department of Environmental Management (RIDEM) requirements. The Purchaser shall also be responsible of perimeter security fence maintenance and security, including vegetation removal and maintenance.
- d. **No Alteration of Premises.** Purchaser shall not make any alterations or repairs to the Premises which may adversely affect the operation and maintenance of the System without Seller's prior written consent, which consent shall not be unreasonably withheld. If Purchaser wishes to make such alterations or repairs, Purchaser shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Purchaser in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Purchaser shall be responsible for all damage to the System caused by Purchaser or its contractors. To the extent that temporary disconnection or removal of the

System is necessary to perform such alterations or repairs, such work and any replacement of the System after completion of Purchaser's alterations and repairs, shall be done by Seller or its contractors at Purchaser's cost. All of Purchaser's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

- e. **Outages.** Purchaser shall be permitted to be off line for a total of forty eight (48) day light hours (each, a "**Scheduled Outage**") per calendar year during the Term, during which days Purchaser shall not be obligated to accept or pay for electricity from the System; provided, however, that Purchaser must notify Seller in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage. In the event that Scheduled Outages exceed a total of forty eight (48) day light hours per calendar year or there are unscheduled outages, in each case for a reason other than a Force Majeure event, Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during such excess Scheduled Outages or unscheduled outages and shall invoice Purchaser for such amount and any associated lost or recaptured Environmental Incentives and lost sales (and penalties payments associated with the same) of associated Environmental Attributes in accordance with Section 4. For avoidance of doubt, the forty eight (48) hour period shall include all Scheduled Outage hours allowed under any of the terms of this Agreement, including those undertaken pursuant to Section 8(d).
- f. **Liens.** Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, secSKty interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein. Purchaser shall immediately notify Seller in writing of the existence of any such mortgage, pledge, lien, charge, secSKty interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Seller.
- g. **SecSKty.** Purchaser shall be responsible for using commercially reasonable efforts to maintain the physical secSKty of the Premises and the System. Purchaser will not conduct activities on, in or about the Premises or the Premises that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System.
- h. **Insolation.** Purchaser understands that unobstructed access to sunlight ("**Insolation**") is essential to Seller's performance of its obligations and a material term of this Agreement. Purchaser shall not in any way cause and, where possible, shall not in any way permit any interference with the System's Insolation. If Purchaser becomes aware of any activity or condition that could diminish the Insolation of the System, Purchaser shall notify Seller immediately and shall cooperate with Seller in preserving the System's existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 6.h.i(h) against Purchaser.
- i. **RESERVED.**
- j. **Breakdown Notice.** Purchaser shall notify Seller within twenty-four (24) hours following the discovery by it of (A) any material malfunction in the operation of the System; or (B) any occurrences that could reasonably be expected to adversely affect the System. Purchaser shall notify Seller immediately upon (A) becoming aware of an interruption in the supply of electrical energy from the System; or (B) the discovery of an emergency condition respecting the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays.

8. **Change in Law.**

"**Change in Law**" means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation; (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority which in the case of any of (i), (ii) or (iii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Seller's obligations hereunder and which has a material adverse effect on the cost to Seller of performing such obligations; provided, that a change in federal, state, county or any other tax law after the Effective Date of this Agreement shall not be a Change in Law pursuant to this Agreement.

If any Change in Law occurs that has a material adverse effect on the cost to Seller of performing its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt by Purchaser from Seller of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty

(30) day period, then Seller shall have the right to terminate this Agreement without further liability to either Party except with respect to payment of amounts accrued prior to termination.

9. Relocation of System.

If Purchaser ceases to conduct business operations at and/or vacates the Premises or is prevented from operating the System at the Premises prior to the expiration of the Term, Purchaser shall have the option to provide Seller with a mutually agreeable substitute premises located within the same Utility district as the terminated System or in a location with similar Utility rates and Insolation. Purchaser shall provide written notice at least sixty (60) days but not more than one hundred eighty (180) days prior to the date that it wants to make this substitution. In connection with such substitution, Purchaser shall execute an amended agreement that shall have all of the same terms as this Agreement except for the (i) Effective Date; (ii) License, which will be amended to grant rights in the real property where the System relocated to; and (iii) Term, which will be the remainder of the Term of this Agreement and such amended agreement shall be deemed to be a continuation of this Agreement without termination. Purchaser shall also provide any new Purchaser, owner, lessor or mortgagee consents or releases required by Seller or Seller's Financing Parties in connection with the substitute premises. Purchaser shall pay all costs associated with relocation of the System, including all costs and expenses incurred by or on behalf of Seller in connection with removal of the System from the Premises and installation and testing of the System at the substitute premises and all applicable interconnection fees and expenses at the substitute facility, as well as costs of new title search and other out-of-pocket expenses connected to preserving and refiling the secSKty interests of Seller's Financing Parties in the System. Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during the period of time the System is not in operation due to the relocation and shall invoice Purchaser for such amount and any associated lost or recaptured Environmental Incentives and lost sales (and penalties payments associated with the same) of associated Environmental Attributes in accordance with Section 4. Seller shall remove the System from the vacated Premises prior to the termination of Purchaser's ownership, lease or other rights to use such Premises. Seller will not be required to restore the Premises to its prior condition but shall promptly pay Purchaser for any damage caused by Seller during removal of the System, but not for normal wear and tear. If the substitute premises has inferior Insolation as compared to the original Premises, Seller shall have the right to make an adjustment to Exhibit 1 such that Purchaser's payments to Seller are the same as if the System were located at the original Premises. If Purchaser is unable to provide such substitute premises and to relocate the System as provided, any early termination will be treated as a default by Purchaser.

10. Removal of System at Expiration.

Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option), Seller shall, at its expense, remove all of its tangible property comprising the System from the Premises on a mutually convenient date, but in no event later than ninety (90) days after the expiration of the Term. Excluding ordinary wear and tear, the Premises shall be returned to its original condition including the removal of System mounting pads or other support structures. Seller shall leave the Premises in neat and clean order. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Premises to its original condition (other than ordinary wear and tear) at Seller's cost. Purchaser shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal. The developer shall be required to provide surety in the form of a performance bond, escrow account, or other means of surety acceptable to the SKSC to ensure adequate funding is available for solar PV demobilization/ removal and restoration of each site to pre-construction conditions.

11. Measurement.

Electricity delivered to the Premises shall be measured by a meter installed and maintained by Seller as part of the System. The specifications for such monitoring system are attached as Exhibit 5.

12. Default, Remedies and Damages.

a. Default. Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below shall be deemed a "**Defaulting Party**" and each event of default shall be a "**Default Event**":

- (1) failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the other Party (the "**Non-Defaulting Party**") of such failure to pay ("**Payment Default**");

- (2) failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (i) the Defaulting Party initiates such cure with the thirty (30) day period and continues such cure to completion and (ii) there is no material adverse affect on the Non-Defaulting Party resulting from the failure to cure the Default Event;
- (3) if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;
- (4) Purchaser loses its rights to occupy and enjoy the Premises;
- (5) a Party, or its guarantor, becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect (or, if any such actions are initiated by a third party, such action(s) is(are) not dismissed within ninety (90) days); or
- (6) Purchaser prevents Seller from installing the System or otherwise failing to perform in a way that prevents the delivery of electric energy from the System. Such Default Event shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

b. Remedies.

- (1) Remedies for Payment Default. If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement. Further, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement, upon five (5) days prior written notice to the Defaulting Party following the Payment Default.
- (2) Remedies for Other Defaults. On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement or suspension of performance of its obligations under this Agreement, upon five (5) days prior written notice to the Defaulting Party following the occurrence of the Default Event. Nothing herein shall limit either Party's right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event.
- (3) Damages Upon Termination by Default. Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, the Defaulting Party shall pay a Termination Payment to the Non-Defaulting Party determined as follows (the "**Termination Payment**"):
 - A. Purchaser. If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to Seller shall be equal to the sum of (i) the termination value set forth in **Exhibit 1** (the "**Termination Value**") for such Contract Year, (ii) removal costs as provided in Section 13(b)(3)(C) and (iii) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller. The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of an Default Event by Purchaser would be difficult to ascertain, and the applicable Termination Value set forth in **Exhibit 1** is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement. The Termination Payment shall not be less than zero.
 - B. Seller. If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (i) the present value (using a discount rate of 5.0%) of the excess, if any, of the reasonably expected cost of electric

energy, as determined by the Purchaser on a commercially reasonable basis (Purchaser shall furnish Seller with a detailed calculation of such cost if such a claim is made) over the Contract Price for the reasonably expected production of the System for the remainder of the Initial Term or the then current Additional Term, as applicable; (ii) all costs reasonably incurred by Purchaser in re-converting its electric supply to service from the Utility; (iii) any removal costs incurred by Purchaser, and (iv) any and all other amounts previously accrued under this Agreement and then owed by Seller to Purchaser. The Termination Payment shall not be less than zero.

- C. Obligations Following Termination. If a Non-Defaulting Party terminates this Agreement pursuant to this Section 12(b), then following such termination, Seller shall, at the sole cost and expense of the Defaulting Party, remove the equipment (except for mounting pads and support structures) constituting the System. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

13. Representations and Warranties.

- a. General Representations and Warranties. Each Party represents and warrants to the other the following:

- (1) Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).
- (2) Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

- b. Purchaser's Representations and Warranties. Purchaser represents and warrants to Seller the following:

- (1) License. Purchaser has title to or a leasehold or other property interest in the Premises. Purchaser has the full right, power and authority to grant the License contained in Exhibit 8. Such grant of the License does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or the Premises and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Premises. If Purchaser does not own the Premises or Premises, Purchaser has obtained all required consents from the owner of the Premises and/or Premises to grant the License and enter into and perform its obligations under this Agreement.
- (2) Other Agreements. Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser or the Premises is bound.
- (3) Accuracy of Information. All information provided by Purchaser to Seller, as it pertains to the Premises's physical configuration, Purchaser's planned use of the Premises, and Purchaser's estimated electricity requirements, is accurate in all material respects to Seller's knowledge.
- (4) Purchaser Status. Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.

14. System and Premises Damage and Insurance.

- a. System and Premises Damage.

- (1) Seller's Obligations. If the System is damaged or destroyed by casualty of any kind or any other occurrence other than by Purchaser's gross negligence or willful misconduct, Seller shall promptly

repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Term, Seller shall not be required to restore the System, but may instead terminate this Agreement, unless Purchaser agrees (i) to pay for the cost of such restoration of the System or (ii) to purchase the System "AS-IS" at the greater of (A) then current fair market value of the System and (B) the sum of the amounts described in Section 12.b(3)A(i) (using the date of purchase to determine the appropriate Contract Year) and Section 12.b(3)A(iii).

- (2) Purchaser's Obligations. If the Premises is damaged or destroyed as a result of Purchaser's gross negligence or willful misconduct, such that the operation of the System and/or Purchaser's ability to accept the electric energy produced by the System are materially impaired or prevented, Purchaser shall promptly repair and restore the Premises to its pre-existing condition; provided, however, that if more than 50% of the Premises is destroyed during the last five years of the Term, Purchaser may elect either (i) to restore the Premises or (ii) to pay the Termination Payment and all other costs previously accrued but unpaid under this Agreement and thereupon terminate this Agreement.

- b. Insurance Coverage. At all times during the Term, Seller and Purchaser shall maintain the insurance coverages as set forth in Exhibit 8.

15. Ownership; Option to Purchase.

- a. Ownership of System. Throughout the Term, Seller shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes, and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture to, the Premises or the Premises. Each of the Seller and Purchaser agree that the Seller is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this Agreement. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Purchaser covenants that it will use commercially reasonable efforts to place all parties having an interest in or a mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on the Premises or the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Purchaser shall provide a disclaimer or release from such lienholder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Premises is located. If Purchaser is not the fee owner, Purchaser will obtain such consent from such owner. For the avoidance of doubt, in either circumstance Seller shall file such disclaimer. Upon request, Purchaser agrees to deliver to Seller a non-disturbance agreement in a form reasonably acceptable to Seller from the owner of the Premises (if the Premises is leased by Purchaser), any mortgagee with a lien on the Premises, and other Persons holding a similar interest in the Premises. To the extent that Purchaser does not own the Premises or Premises, Purchaser shall provide to Seller immediate written notice of receipt of notice of eviction from the Premises or Premises or termination of Purchaser's lease of the Premises and/or Premises.

- b. Option to Purchase. At the end of the sixth (6th) and tenth (10th) Contract Years and at the end of the Term, so long as Purchaser is not in default under this Agreement, Purchaser may purchase the System from Seller on any such date for a purchase price equal to the Fair Market Value of the System. The "**Fair Market Value**" of the System shall be determined by mutual agreement of Purchaser and Seller; provided, however, if Purchaser and Seller cannot agree to a Fair Market Value within thirty (30) days after Purchaser has exercised its option, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System on an installed basis and shall set forth such determination in a written opinion delivered to the Parties; provided that in no event shall the Fair Market Value be less than the aggregate of the amounts calculated under Sections 12(b)(3)(A)(i) and (iii) as of the date of System title transfer. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error; provided, however, that Purchaser may, within ten (10) days of receipt of the valuation, elect not to exercise its right to purchase the System. The costs of the appraisal shall be borne by the Parties equally. Purchaser must provide a notification to Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Term, and the purchase shall be complete prior to the end of the applicable Contract Year or the Term, as applicable. Upon purchase of the System, Purchaser will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder.

16. Indemnification and Limitations of Liability.

- a. **General.** Seller shall defend, indemnify and hold harmless the South Kingstown, its governing Board and Council, and the State of Rhode Island, their respective, Board Members, Council Members, Trustees, Officers, servants, and employees (collectively, the “**Indemnified Party**”), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys’ fees (collectively, “**Liabilities**”) resulting from any third party actions relating to the breach of any representation or warranty set forth in Section 13 and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Seller (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Seller to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 16(a) however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 16(c). The foregoing express obligation of indemnification shall not be construed to negate or abridge any other obligation of indemnification running to the University of Rhode Island, its governing Board and Council and the State of Rhode Island. Purchaser shall give Seller prompt and timely notice of any claims, threatened or made, or any law suit instituted against it which could result in a claim for indemnification hereunder. The extent of this indemnification shall not be limited by any obligation or any term or condition of any insurance policy.
- b. **Notice and Participation in Third Party Claims.** The Indemnified Party shall give the Seller written notice with respect to any Liability asserted by a third party (a “**Claim**”), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. Seller may assume the defense of any Claim, at its sole cost and expense, with counsel designated by Seller and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to Seller. Seller shall pay the reasonable attorneys’ fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of Seller, assume the defense of any Claim if Seller fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 16(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Seller shall have no liability under this Section 16(b) for any Claim for which such notice is not provided if that the failure to give notice prejudices Seller.
- c. **Environmental Indemnification.** Seller shall indemnify, defend and hold harmless the Indemnified Party from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance (as defined in Section 16(c)(i)) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises generally or any deposit, spill or release of any Hazardous Substance.
- i. “**Hazardous Substance**” means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollution,” “pollutants,” “regulated substances,” or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.
- d. **Limitations on Liability.** Each Party’s liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall be limited to actual damages only, and neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such. The provisions of this Section (16)(d) shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise. Any action against either Party must be brought within one (1) year after the cause of action accrues. Notwithstanding anything to the contrary in this Agreement, the claims limits of Buyer are subject to the limitation of liability set forth in Chapter 31, Title 9 of the General Laws of Rhode Island and nothing provided herein is intended to constitute a waiver of the protections afforded thereunder. This section does not apply to asserted third party claims.

17. **Force Majeure.**

- a. “**Force Majeure**” means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the

production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

- b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.
- c. Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused but may be suspended by a Force Majeure event that impacts Purchaser's ability to make payment.
- d. If a Force Majeure event continues for a period of one hundred (180) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, the Party not claiming the Force Majeure shall have the right to terminate this Agreement without fault or further liability to either Party (except for amounts accrued but unpaid).

18. **Assignment and Financing.**

a. **Assignment.**

(i) This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, without the prior written consent of Purchaser assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement to any Financing Party.

(ii) This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

- b. **Financing.** The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from lenders or third parties (including tax equity or similar investors) ("**Financing Parties**") in connection with the installation, construction, ownership, operation and maintenance of the System. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. The Parties also agree that Seller may assign this Agreement to the Financing Parties as collateral, and in connection with any such assignment, Purchaser agrees to execute a consent to assignment in customary form and reasonably acceptable to the Financing Parties, providing such consent does not alter the terms of this Agreement.

- 19. **Goodwill and Publicity.** Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or other public statements by the other Party that refer to, or that describe any aspect of, this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law) without the specific prior written consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.

20. **General Provisions**

- a. **Choice of Law.** The law of the state where the System is located shall govern this Agreement without giving effect to conflict of laws principles.
- b. **Jurisdiction.** The Parties submit to the jurisdiction of the courts of the State of Rhode Island and any United States District located in Rhode Island.
- c. **Notices.** All notices under this Agreement shall be in writing and shall be by personal delivery, electronic mail, overnight coSKer, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight coSKer, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either party may specify in writing. Each party shall deem a document faxed, emailed or electronically sent in PDF form to it as an original document.
- d. **Survival.** Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 13 (Representations and Warranties), Section 14(b) (Insurance Coverage), Section 16 (Indemnification and Limits of Liability), Section 20(a) (Choice of Law), Section 20 (b) (Arbitration and Attorneys' Fees), Section 20(c) (Notices), Section 20 (g) (Comparative Negligence), Section 20(h) (Non-Dedication of Facilities), Section 20(j) (Service Contract), Section 20(k) (No Partnership) Section 20(l) (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 20(mm) (No Third Party Beneficiaries).
- e. **Further Assurances.** Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.
- f. **Right of Waiver.** Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time; provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.
- g. **Comparative Negligence.** It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.
- h. **Non-Dedication of Facilities.** Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jSKsdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensSKng that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructSKng, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 10 of this Agreement.
- i. **Estoppel.** Either Party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party

has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

- j. **Service Contract.** The Parties intend this Agreement to be a “service contract” within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.
- k. **No Partnership.** No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.
- l. **Full Agreement, Modification, Invalidity, Counterparts, Captions.** This Agreement, together with any Exhibits, completely and exclusively states the agreement of the parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
- m. **No Third Party Beneficiaries.** Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.

End of Exhibit 4

Exhibit 5

Monitoring System Specifications and Testing Procedures

Metering and Data Acquisition: Seller shall provide

Monitoring System Test

Purpose:	Verify the proper operation of the web-based monitoring systems and the revenue grade meters
Scope:	All monitoring system equipment including the revenue grade meters
Party:	Installer and manufacturer, with Seller's supervision
Schedule:	At system start-up
Equipment/Materials:	rubber insulating gloves digital multi-meter an accuracy of at least 1 percent of reading for voltage other equipment as required by manufacturer
Procedure:	Follow all manufacturer's guidelines for monitoring system start-up and maintenance, including verification of safety and control features. Verify and inspect the proper operation of the Data Acquisition System (DAS), revenue grade meters and the data line. Verify that operational data is collected in the Contractor's monitoring system, PowerGuide. Inspect each revenue grade meter and each utility meter. Calibrate the DAS against the revenue grade meters and the utility grade meter (if permitted to do so).

Exhibit 6

Operations and Maintenance Guide

Seller and its designated representatives shall perform all activities directly related to the operation and maintenance (“O&M”) of the System as noted in the following statement of work. O&M activity on the site will be performed in accordance with standard safety procedures and applicable codes. All other activity is considered out of scope unless explicitly called out in writing by Seller.

1. Inverter Tests and Inspections

Inverter tests and inspections will occur in accordance with inverter manufacturer warranty requirements.

a. Services Provided

- i. Visual inspection of interior and exterior of inverter for damage and moisture intrusion
- ii. Visual inspection of fuses, circuit boards, wiring and other components
- iii. Verify proper torque on conductor terminations
- iv. Infrared scans of internal inverter components to identify hot spots
- v. Test low voltage power supplies
- vi. Test Inverter input and output voltages
- vii. Clean fans
- viii. Replace (or clean) filters

b. Materials Provided:

- i. Consumables
- ii. Touch up paint
- iii. Replacement filters
- iv. Lubricants

2. Array Tests and Inspections

a. Services Provided:

- i. Visual inspection of electrical equipment including wire runs, conduit, disconnects, fuses and combiners
- ii. Combiner boxes inspections for heat discoloration, moisture entry, rodent ingress, and continuity of weatherproof seals.
- iii. Racking inspections for signs of corrosion, chipped paint and missing components.
- iv. Random sample module testing
- v. Modules inspection for hot spots and blemishes on the PV cells.
- vi. Inspection of module backsheets for burn marks, blisters and discoloration.
- vii. Junction box inspection to verify that seals are water tight and connectors are in good condition.
- viii. Arrays are checked for vegetation growth in the array area, and around combiner boxes
- ix. Re-torque of all combiner box conductor terminations
- x. Random sampling and re-torque of module clamps
- xi. Testing of disconnects for proper operation
- xii. Infrared scans of combiner boxes and disconnects
- xiii. String level testing of current and voltage
- xiv. Ground continuity testing of racking system

3. Transformer Tests and Inspections

a. Services Provided

- i. Visual inspection of interior and exterior areas of the transformer
- ii. Oil quality testing
 1. Dielectric strength test

2. Interfacial tension test
 3. Acid Test
 4. Water Content
 5. Dissolved Gas
 6. Power Factor
 7. Inhibitor content
- iii. Re-torque of internal terminations
- b. Materials provided:
 - i. Consumables / containers / lab testing materials

Exhibit 7

Additional Terms

1) Communication and Schedule

Seller's project manager shall establish a communication protocol with Purchaser and schedule updates throughout the installation of the System. Seller's project manager will provide a detailed construction schedule in Microsoft Project prior to the start of installation.

2) Site Audit

A Seller site auditor will conduct a site audit to determine the specific conditions of the site, fire code compliance, preliminary staging area for equipment, location of inverters, and to determine issues with shading. The auditor will make extensive measurement and notes, and takes pictures of the site for use in the design phase.

3) Design

Using information provided by the site auditor, Seller's design team will determine the layout of the system, the location of electrical equipment, the interconnection point and any geological conditions that need to be taken into account. Sellers are advised that the three – (3) properties are Superfund landfills that have been closed (capped) under US Environmental Protection Agency (USEPA) and RI Department of Environmental Management (RIDEM) requirements. Each landfill area incorporates a multi-layer cap with a gas collection system, impervious membrane and subsurface drainage layer. All equipment and utilities shall be an above grade ballasted type system. Penetrations or excavations into the multi-layer cap are expressly prohibited. Further, sellers are advised that side slope loading, and potential cap shearing may be a cause for concern, especially for the Rose Hill landfill site. As such, the proponent's design engineer shall be familiar with landfill cap design. Design plans shall be stamped by a Professional Engineer licensed by the State of Rhode Island.

Although USEPA and RIDEM are in support of landfill beneficial reuse, final project design shall be subject to approval by the SKSC, USEPA and RIDEM, to ensure protectiveness of the landfill caps and the general public. Institutional Controls (ICs) for each site are attached hereto for information of the proponents.

4) Purchaser Approval

Seller will submit final System design to the Purchaser for approval, and make changes if necessary. The design shall, at a minimum, meet the following criteria:

- Symmetrical and flat, despite undulations in the ground surface
- Avoid direct shading on the PV modules from 9am to 5pm, especially during summer months
- Inverters are placed in locations with good ventilation and shielded from exposure to rain
- Straight wire runs that are aligned with module frames and racking system
- The System design shall be reviewed by an external professional engineer.
- The final plan set drawings shall be signed by a Registered Rhode Island Professional Engineer, provided to Purchaser and all Authorities Having Jurisdiction (“**AHJ**”) and include all aspects of the project such as:
 - NEC compliance
 - Life-safety issues
 - Verification of the design assumptions made in the electrical and structural calculations
 - Determination of the appropriate equipment
 - Building code compliance
 - Finalization of structural calculations
 - Providing rack and module connection details (when necessary)

5) Permitting

Once System designs are approved by Purchaser, Seller will apply to all relevant AHJs for all necessary permits for the installation.

6) Pre-construction

Seller's project management team, including any subcontractors, will perform a site walk with the Purchaser's on-site manager before finalizing a materials staging plan, parking plan, traffic management plan, drainage management plan, demolition plan (for any obstructions or shading factors), and work with Seller's in-house safety team to create a site-specific safety plan.

7) Construction

Seller's project manager and construction manager will oversee all aspects of the installation process. The project manager will be the Purchaser's dedicated point of contact during this period. The System shall be installed compliant with applicable national codes and local ordinances. Seller work crews shall be required to:

- Upload digital photos of each stage of the installation into each customer's file on our central server
- Torque all connections to the manufacturer-specified values
- Label all current-carrying wires
- Verify the functioning of all equipment to proactively address issues and meet Seller's performance guarantees
- Add a laminated string diagram to the inside cover of each combiner box
- Complete the "Job Closeout Sheet" to ensure that each step of the job was done to specification
- Submit reports on the timeliness of each installation

8) Safety

Throughout the duration of the installation, Seller's construction manager (or other designee) will conduct weekly safety meetings with the crews, and conduct ongoing safety supervision on a daily basis.

9) Project Close-out

An Operations and Maintenance Manual containing all as-built drawings, operating instructions, warranty information and other pertinent documents, including copies of all permits, will be created by Seller and provided to Purchaser at the completion of installation.

10) Interconnection

Final inspection by Seller's project manager, construction manager, a representative of the local AHJ, and the local utility will check that the equipment has been properly installed, tested and is functioning correctly must be made before application for final interconnection to the utility grid and an application for permission to operate ("PTO") is made to the local utility.

11) Commissioning

Once Seller and the utility have confirmed the system is functioning properly, Seller will conduct a final review with the Purchaser. After Seller completes the commissioning and verification process, the System will commence generation of electricity. Seller shall share with Purchaser the final commissioning report for the System.

12) Training

Seller will provide on-site training for the customer in the safe operation of the system, the monitoring interface, and proper maintenance, as requested by the Purchaser.

13) Site Restoration

After System removal, Seller will restore Facilities to their original condition (unless damage to the site results from Purchaser action).

14) Site Preparation and Interconnection Requirements

Seller understands that all expenses in preparing the site for the System as designed, as well as improving access to the site for the System as designed will be Seller's responsibility.

Exhibit 8

**SYSTEM LICENSE AGREEMENT BETWEEN
SOUTH KINGSTOWN
&**