

ENERGY PERFORMANCE CONTRACT AND POWER PURCHASE AGREEMENT

This ENERGY PERFORMANCE CONTRACT AND POWER PURCHASE AGREEMENT (this “Agreement”) is made and entered into as of January 14, 2015 (the “Effective Date”) by and between RER PPA, LLC, a Pennsylvania limited liability company (“Seller”), and **Madison County**, a New York State Municipality (“Purchaser”). Each of Seller and Purchaser are sometimes referred to as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Purchaser conducts its business at the Premises (defined below);

WHEREAS, the Premises are owned by Purchaser (“Owner”)

WHEREAS, Owner and Seller are parties to that certain System Site License Agreement dated of even date herewith (the “Site License”), pursuant to which Owner has licensed to Seller that certain portion of the Premises referred to herein as the Project Site (as defined in the Site License) and granted to Seller certain rights on, over, and across the Premises for the installation, maintenance, and operation of the System (defined below);

WHEREAS, Seller desires to install the System on the Project Site and sell the electricity generated from the System to Purchaser, on the terms set forth herein; and

WHEREAS, this Agreement is entered into in accordance with the Article 9 of the New York State Energy Law (“Article 9”); and

WHEREAS, Purchaser desires to purchase from Seller the electricity generated from the System on the terms set forth herein.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

AGREEMENT

1. **DEFINITIONS.** Capitalized terms used herein shall have the respective meanings set forth in Exhibit A.

2. **PURCHASE AND SALE OF ENERGY.**

2.1 Sale of Energy. Seller shall sell to Purchaser and Purchaser shall purchase from Seller all of the Energy, as and when the same is produced, at the Energy Price in effect at the time of delivery. Seller shall deliver the Energy to the Delivery Point, and Purchaser shall accept the Energy delivered for the full Contract Term.

2.1.1 If, for any reason, Purchaser's electric requirements are less than the Energy produced by the System Purchaser shall nevertheless pay for all Energy as and when produced by System pursuant to the terms of this Agreement. To the extent permitted by applicable law, Purchaser may deliver any excess Energy to Utility in accordance with the Net Metering Rules or enter into other arrangements to deliver or exchange such excess Energy to another buyer. Seller shall provide reasonable assistance to Purchaser in arranging and coordinating such deliveries or exchanges; provided, that all such assistance shall be at the sole expense of Purchaser.

2.1.2 To the extent that Purchaser's electricity requirements exceed the Energy produced by the System, Purchaser shall purchase such excess electricity from Utility. Purchaser shall be responsible for all charges, applicable taxes, penalties, ratcheted demand or similar charges assessed by Utility for transmission and distribution service and other services necessary to meet the full energy requirements of Purchaser.

2.1.3 The estimated production of the System is set forth in Exhibit F ("Estimated Production"). Purchaser shall be entitled to utilize the entire Energy output of the System. If, throughout the year, the System produces less than eighty percent (80%) of the System's predicted kWh output, Seller shall be in breach hereunder and will pay Purchaser a payment. Seller will pay Purchaser a payment based upon the difference of the monetary net metering revenue lost on any annual production below 80% of the System kWh predictions, less the amount the Purchaser would have paid for any energy produced under the terms of this Agreement below 80% of the System kWh predictions listed in Exhibit F. Annual kWh production will be measured by revenue grade meters installed for the System.

2.1.4 Following the Commercial Operation Date, in the event the System fails to generate any Energy for 180 consecutive days for reasons other than Force Majeure, System upgrades pursuant to Section 3.9, Purchaser's breach of this Agreement or Owner's breach of the Site License (an "Unexcused Outage") then, beginning on the 181st day and for each subsequent consecutive day of an Unexcused Outage, Seller shall pay to Purchaser, in the form of a set-off against invoices for future Energy deliveries, an amount equal to \$200.00 per day until the end of such Unexcused Outage. Payment by Seller of such amounts shall be Purchaser's sole and exclusive remedy for any Unexcused Outage. In the Event the System fails to generate Energy for 360 consecutive days, then either Seller or Purchaser may terminate this Agreement upon thirty (30) days' written notice to the other delivered at any time prior to the date on which the System resumes generating Energy.

2.1.5 THE PARTIES AGREE THAT IT WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE UNDER THE PRESENTLY KNOWN AND ANTICIPATED FACTS AND CIRCUMSTANCES TO ASCERTAIN AND FIX THE AMOUNT OF ACTUAL DAMAGES THAT WOULD BE SUFFERED DUE TO UNEXCUSED OUTAGES, INCLUDING THOSE LASTING MORE THAN 180 DAYS. THEREFORE THE PARTIES ACKNOWLEDGE THAT THE AMOUNTS DESCRIBED IN SECTION 2.1.4 ARE A FAIR AND REASONABLE DETERMINATION OF THE AMOUNT OF DAMAGES WHICH WOULD BE SUFFERED BY PURCHASER FOR UNEXCUSED OUTAGES, AND THAT SUCH AMOUNTS DO NOT CONSTITUTE A PENALTY.

2.2 Contract Term. The term of this Agreement shall be for a period of twenty-five 25 years commencing on the Commercial Operation Date (the “Contract Term”).

2.3 Environmental Attributes and Incentives.

2.3.1 Environmental Attributes. Seller shall have all right, title, and interest in and to all Environmental Attributes related to the System. At Seller’s expense, Purchaser agrees to cooperate with Seller in any applications for Environmental Attributes related to the System.

2.3.2 Environmental Incentives. Seller shall have all right, title, and interest in and to all Environmental Incentives related to the System. Any Environmental Incentive related to the System that is initially credited or paid to Purchaser shall be assigned by Purchaser to Seller without delay. At Seller’s expense, Purchaser agrees to cooperate with Seller in any applications for Environmental Incentives related to the System.

2.3.3 Assistance with Environmental Attributes and Incentives. Purchaser shall promptly assist and cooperate with Seller in acquiring and maintaining in effect all necessary permits and approvals for the System from Governmental Authorities. Purchaser shall comply with all laws, regulations and rules relating to acquiring and maintaining Environmental Attributes and Environmental Incentives and shall deliver to Seller copies of any documentation related thereto that is required by law to be in the name or physical control of Purchaser. Seller shall reimburse Purchaser for its reasonable and necessary third party costs including reasonable attorney fees incurred in relation to Purchaser’s assistance with such matters.

2.3.4 Impairment of Environmental Attributes and Incentives. Purchaser shall not take any action or suffer any omission that would have the effect of reducing or impairing the value to Seller of the Environmental Attributes and Environmental Incentives. Purchaser shall promptly notify Seller in the event it has actual knowledge of any event, action or omission that could have the effect of reducing or impairing the value of the Environmental Attributes and Environmental Incentives. Upon the occurrence of any such event, action or omission, Purchaser shall consult with Seller concerning the potential for reduction or impairment of the value of Environmental Attributes and Environmental Incentives.

3. THE SYSTEM.

3.1 Installation, Operation, and Maintenance of the System. Seller shall be responsible for the installation, operation, and maintenance of the System in a manner consistent with Prudent Operating Practice. If the supply of Energy from the System is interrupted as a result of malfunction or other shutdown, Seller shall use commercially reasonable efforts to remedy such interruption. Both Parties shall comply with all applicable laws and regulations relating to the operation of the System and the generation and sale of Energy, including obtaining and maintaining in effect all relevant approvals and permits.

3.2 Maintenance of Health and Safety. Seller shall take all reasonable safety precautions with respect to the operation, maintenance, repair, and replacement of the System and shall comply with all applicable OSHA, health and safety laws, rules, regulations, and permit requirements. If Seller becomes aware of any circumstances relating to the Premises or the System that creates an imminent risk of damage or injury to any Person or any Person’s property (and,

should Purchaser become aware of such circumstances, Purchaser shall promptly notify Seller with respect thereto), Seller shall take prompt action to prevent such damage or injury and shall promptly notify Purchaser. Such action may include disconnecting and removing all or a portion of the System, or suspending the supply of Energy to Purchaser.

3.3 Assistance with Permits and Licenses. Upon Seller's request, Purchaser shall assist and cooperate with Seller, to acquire and maintain approvals, permits, and authorizations or to facilitate Seller's compliance with all applicable laws and regulations related to the construction, installation, operation, maintenance, and repair of the System, including providing any owner or occupant authorizations, signing and processing any applications for permits, local utility grid interconnection applications, and rebate applications as are required by law to be signed by Purchaser. Purchaser shall also deliver to Seller copies of any necessary approvals, permits, rebates, or other financial incentives that are required by law in the name or physical control of Purchaser. Seller shall reimburse Purchaser for reasonable and necessary third party costs including reasonable attorney fees incurred by Purchaser in relation to Purchaser's assistance with such matters.

3.4 Commercial Operation Date. Seller shall deliver notice to Purchaser (5) days prior to the occurrence of the Commercial Operation Date.

3.5 Early Termination. In the event that the Commencement of Installation Date has not occurred by the 180th day following the Effective Date, either Party may terminate this Agreement upon thirty (30) days' written notice to the other party delivered at any time prior to the actual Commencement of Installation Date; provided, however, that the foregoing date shall be extended on a day-for-day basis for any Force Majeure occurring after the Effective Date and prior to the Commencement of Installation Date.

3.6 Seller's Taxes. Subject to Section 3.7, Seller is solely responsible for all income, gross receipts, ad valorem, personal property, or other similar taxes and any and all franchise fees or similar fees relating to Seller's ownership of the System.

3.7 Purchaser's Taxes. Purchaser is responsible for paying timely all taxes, charges, levies, and assessments against the Premises. Purchaser is also responsible for paying all sales, use, and other taxes, and any and all franchise fees or similar fees assessed against Purchaser as a result of Purchaser's purchase of the Energy and, in the event that Purchaser exercises the Purchase Option, its purchase and ownership of the System, which fees are not otherwise the obligation of Seller.

3.8 Notice of Damage. Purchaser shall promptly notify Seller of any physical conditions or other circumstances of which Purchaser becomes aware that indicate there has been or might be damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System.

3.9 System Upgrades. At any time, following notice to Purchaser, Seller may upgrade the System; provided that the upgraded System complies with this Agreement and applicable laws and, provided further, that if any System upgrade would increase the annual Estimated Production by more than ten percent (10%) percent, then Seller shall obtain Purchaser's prior written consent

before performing the System upgrade. In order to perform any System upgrades, Seller may disconnect the System and interrupt Energy deliveries, provided that Seller shall complete such upgrades and re-connect the System within 180 days of commencing the upgrades.

4. PAYMENT AND METERING.

4.1 Consideration for Energy Delivered. As consideration for the delivery of Energy by Seller, Purchaser shall pay for Energy delivered hereunder at the applicable Energy Price.

4.2 Invoicing. Seller shall invoice Purchaser for Energy monthly. Seller shall deliver each invoice within thirty (30) Business Days after the end of each monthly billing period. Each invoice shall set out the amount of Energy delivered in kWh during such billing period, the then-applicable Energy Price, and the total amount then due to Seller, including any taxes assessed on the sale of Energy to Purchaser, offsets for amounts due from Seller to Purchaser pursuant to Section 2.1.4, and credits due to Purchaser under Section 4.5. The amount due shall be prorated for any partial month during the Contract Term. Such invoice shall include sufficient details so that Purchaser can reasonably confirm the accuracy of the invoice including, among other details, beginning and ending meter readings. Purchaser shall pay the amount due to Seller within forty five (45) Business Days after receipt of each invoice (the invoice due date), together with interest accrued at the Interest Rate from the invoice due date to the date paid.

4.3 Disputed Amounts. A Party may in good faith dispute the correctness of any invoice (or any adjustment to any invoice) under this Agreement at any time within thirty (30) days following the delivery of the invoice (or invoice adjustment). In the event that either Party disputes any invoice or invoice adjustment, such Party shall nonetheless pay the full amount of the applicable invoice or invoice adjustment (except any portions thereof that are reasonably believed to be inaccurate or are not reasonably supported by documentation, payment of which amounts may be withheld subject to adjustment as hereinafter set forth) on the applicable payment due date, except as expressly provided otherwise elsewhere in this Agreement, and to give written notice of the objection to the other Party. Any required payment will be made within five (5) Business Days after resolution of the applicable dispute, together with interest accrued at the Interest Rate from the invoice due date to the date paid.

4.4 Metering of Delivery. Seller shall measure the amount of Energy supplied to Purchaser at the Delivery Point using a commercially available, revenue-grade metering system. Such meter shall be installed and maintained at Seller's cost. Purchaser shall cooperate with Seller to enable Seller to have reasonable access to the meter as needed to inspect, repair, and maintain such meter. At Seller's option, the meter may have standard industry telemetry and/or automated meter reading capabilities to allow Seller to read the meter remotely. If Seller elects to install telemetry allowing for remote reading, Purchaser shall allow for the installation of necessary communication lines and shall reasonably cooperate in providing access for such installation. The meter shall be kept under seal, such seal to be broken only when the meter is to be tested, adjusted, modified, or relocated. In the event that either Party breaks a seal, such Party shall notify the other Party as soon as practicable.

4.5 Meter Verification. On each of the fifth, tenth and fifteenth anniversary of the Commercial Operation Date, or earlier upon Seller's request, Seller shall test the meter and provide

copies of any related test results to Purchaser. The tests shall be conducted by a qualified independent third party. Seller shall notify Purchaser seven (7) days in advance of each such test, and shall permit Purchaser to be present during such tests. If a meter is inaccurate, Seller shall promptly cause the meter to be repaired or replaced. If a meter is accurate or inaccurate by two percent (2%) or less, then Purchaser shall pay the costs of the meter testing. If a meter is inaccurate by more than two percent (2%), then Seller shall pay for the costs of the meter testing. If a meter is inaccurate by more than two percent (2%) and the duration of such inaccuracy is known, then prior invoices shall be adjusted accordingly and any amounts owed to Purchaser shall be credited against future invoices for Energy deliveries. If a meter is inaccurate by more than two percent (2%) and it is not known when the meter inaccuracy commenced, then prior invoices shall be adjusted for the amount of the inaccuracy on the basis that the inaccuracy persisted during the twelve month period preceding the test and any amounts owed to Purchaser shall be credited against future invoices for Energy deliveries.

4.6 Books and Records. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years, and Seller shall grant Purchaser reasonable access to those books, records, and data at the principal place of business of Seller. Purchaser may examine such books and records relating to transactions under, and administration of, this Agreement, at any time during the period the records are required to be maintained, upon request with reasonable notice and during normal business hours.

4.7 Change in Law. The Parties acknowledge and agree that the Energy Price is based on assumptions related to the availability to the Seller of the Environmental Incentives. In the event of the elimination or alteration of one or more Environmental Incentives or any other change in law that results in a material adverse economic impact on Seller in respect to this Agreement, the Parties shall work in good faith to amend this Agreement within thirty (30) Business Days after such elimination or alteration as may be reasonably necessary to restore the allocation of economic benefits and burdens contemplated hereunder by the Parties. If the Parties fail to enter into such an amendment by the end of such thirty (30) Business Day period, Seller may terminate this Agreement. Following such termination, neither Party shall bear any liability to the other Party, and Seller shall remove the System from the Premises within one hundred eighty (180) days of such termination.

5. **OPTION TO PURCHASE SYSTEM; END OF TERM.**

5.1 Grant of Purchase Option. Seller hereby grants to Purchaser the right and option to purchase all of the Seller's right, title, and interest in and to the System on the terms set forth herein ("Purchase Option"). Purchaser may exercise the Purchase Option on either the sixth (6th), tenth (10th), fifteenth (15th), twentieth (20th) or twenty fifth (25th) anniversary of the Commercial Operation Date, or simultaneously with the termination of this Agreement pursuant to Section 10.2 (collectively, the "Purchase Option Dates"), provided that no Purchaser Event of Default, or any event which with the passage of time will become a Purchaser Event of Default, has then occurred and is ongoing.

5.2 Determination of Purchase Price. Purchaser may, on or at any time within thirty (30) days before each Purchase Option Date, request a determination of the purchase price under the Purchase Option (the "Purchase Price"). The Purchase Price shall be the fair market value of the System, as determined by an independent appraiser retained by the Parties (the "Independent Appraiser"), provided that the Purchase Price shall in no event be less than the applicable amount set forth on Exhibit E. The Independent Appraiser shall be an individual who is a member of a national accounting, engineering or energy consulting firm qualified by education, experience, and training to determine the value of solar generating facilities of the size and age and with the operational characteristics of the System, and who specifically has prior experience valuing solar energy generating facilities. The Independent Appraiser shall be reasonably acceptable to Seller and Purchaser. Except as may be otherwise agreed by the Parties, the Independent Appraiser shall not be (or within three (3) years before his or her appointment have been) a director, officer, or an employee of, or directly or indirectly retained as consultant or adviser to, either of the Parties or their respective Affiliates. The fair market value assessment of the System shall consider, among other things, the income and savings associated with the System for the remaining portion of the Contract Term, the terminal value of the assets and the System's past and projected performance. The Independent Appraiser shall make a determination of the Purchase Price within thirty (30) days of appointment (the "Price Determination"). Upon making the Price Determination, the Independent Appraiser shall provide a written notice thereof to both Seller and Purchaser, along with all supporting documentation detailing the method of calculation of the Purchase Price. Except in the event of fraud or manifest error, the Price Determination shall be a final and binding determination of the fair market value. If Purchaser wishes to exercise the Purchase Option following the Price Determination, it shall deliver an exercise notice to Seller within ten (10) days of receipt of the Price Determination (the "Exercise Period"). Any such exercise notice shall be irrevocable once delivered. If Purchaser does not exercise the Purchase Option during the Exercise Period, then the Price Determination shall be null and void, and Purchaser may not request a new determination of the Purchase Price until the next Purchase Option Date. Each Price Determination by an Independent Appraiser shall be an expense shared by each party equally.

5.3 Terms and Date of System Purchase. The Parties shall consummate the sale of the System to Purchaser no later than forty-five (45) days following Purchaser's exercise of the Purchase Option. On the effective date of such sale (the "Transfer Date") (a) Seller shall surrender and transfer to Purchaser all of Seller's right, title, and interest in and to the System and shall retain all liabilities, Environmental Attributes, Environmental Incentives, and profits arising from or relating to the System that arose prior to the Transfer Date; (b) Purchaser shall pay the Purchase Price to Seller in readily available funds, and shall assume all liabilities arising from or relating to the System as of and after the Transfer Date; (c) Purchaser shall pay all amounts due under this Agreement for Energy delivered hereunder; and (d) both the Seller and the Purchaser shall (i) execute and deliver a bill of sale and assignment of contract rights, together with such other conveyance and transaction documents as are reasonably required to fully transfer and vest title to the System in Purchaser, and (ii) deliver ancillary documents, including releases, resolutions, certificates, third-party consents and approvals, and such similar documents as may be reasonably necessary to complete and conclude the sale of the System to Purchaser. The purchase and sale of the System shall be on an "as-is, where-is" basis, and Seller shall not be required to make any warranties or representations with regard to the System, but Seller shall, to the extent reasonably possible, transfer or assign to Purchaser all manufacturer and third-party warranties with respect

to the System or any part thereof. Purchaser and Seller shall each pay one half all transaction and closing costs associated with exercise of the Purchase Option.

5.4 End of Term. In the event Purchaser declines to exercise its Purchase Option in connection with the final Purchase Option during the Contract Term, then, at least thirty (30) days before the expiration of the Contract Term, the Parties shall use commercially reasonable efforts to negotiate and document an extension of the Contract Term. In the event the Parties fail to reach agreement regarding such an extension, then Seller shall, within one hundred eighty (180) days after the date of expiration of the Contract Term, remove the System from the Premises, provided that Seller shall not be required to remove electrical wiring or infrastructure, or any portion of the System below grade level. Other than as specifically provided otherwise herein or in the Site License, the removal of the System shall be at the cost of Seller.

6. TITLE AND RISK OF LOSS.

6.1 Title. Seller shall at all times retain title to and be the legal and beneficial owner of the System, and the System shall remain the personal property of Seller and shall not attach to or be deemed a part or fixture of the Premises. Seller may file one or more precautionary financing statements in jurisdictions it deems appropriate with respect to the System in order to protect its rights in the System.

6.2 Risk of Loss. Seller shall bear the risk of loss for the System, except to the extent caused by the breach by Purchaser of its obligations under this Agreement, the Site License or the negligence or intentional misconduct of Purchaser or its invitees.

6.3 System Casualty. Upon the total damage, destruction, or loss of the System, or, in the reasonable opinion of Seller's insurance provider, the System is determined to have experienced a constructive total loss, Seller shall have the option, in its sole discretion, to repair or replace the System or terminate this Agreement. Seller shall notify Purchaser in writing of its election within thirty (30) days after the date of the damage to the System. Seller shall under all circumstances be entitled to all insurance proceeds with respect to the System. If Seller elects to repair or replace the System, Seller shall undertake such repair or replacement as quickly as practicable. If Seller elects to terminate this Agreement, the termination shall be effective immediately upon delivery of the notice under this Section 6.3.

7. FORCE MAJEURE.

7.1 Force Majeure. To the extent either Party is prevented by an event of Force Majeure from performing its obligations under this Agreement, such Party shall be excused from the performance of its obligations under this Agreement (other than the obligation to make payments when due). The Party claiming Force Majeure shall use commercially reasonable efforts to eliminate or avoid the Force Majeure and resume performing its obligations; provided, however, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion. The non-claiming Party shall not be required to perform or resume performance of its obligations to the claiming Party corresponding to the obligations of the claiming Party excused by Force Majeure.

7.2 Notice. In the event of any delay or nonperformance resulting from an event of Force Majeure, the Party suffering the event of Force Majeure shall, as soon as practicable, notify the other Party in writing of the nature, cause, date of commencement thereof and the anticipated extent of any delay or interruption in performance; provided, however, that a Party's failure to give timely notice shall not affect such Party's ability to assert Force Majeure unless the delay in giving notice prejudices the other Party.

8. ADDITIONAL COVENANTS and CONDITIONS.

8.1 Liens. Purchaser shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim on or with respect to the System or any portion thereof. If Purchaser breaches its obligations under this Section 8.1, it shall promptly notify Seller in writing, shall promptly cause any lien to be discharged and released of record without cost to Seller, and shall indemnify Seller against all claims, losses, costs, damages, and expenses, including reasonable attorneys' fees, incurred in discharging and releasing such lien.

8.2 Reserved

8.3 Reserved

8.4 Conditions Precedent. The Purchaser's obligations hereunder shall be subject to and conditional upon each of the following conditions been met to the Sellers satisfaction:

- a) Completed contract with Seller and NYSERDA of PON 2956.
- b) Successful Completion of Geotechnical and Phase I Environmental Analyses without any additional construction cost concerns. Successful completion will be at the sole discretion of the Seller.
- c) Completion of contract negotiations with Utility on the interconnection with fees and other costs not exceeding \$100,000.
- d) Purchaser approval of this Agreement by its governing authority. (Seller acknowledges that this condition has been satisfied by Madison County Board of Supervisors Resolution # xx dated January 6, 2015 authorizing execution of this Agreement).
- e) Seller approval of this Agreement by Financial Partners.
- f) Purchaser's completion of the environmental review process pursuant to the New York State Environmental Quality Review Act ("SEQR").

9. REPRESENTATIONS AND WARRANTIES.

9.1 Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller that:

9.1.1 Purchaser has the requisite corporate, partnership or limited liability company capacity to enter into this Agreement and fulfill its obligations hereunder, that the execution and delivery by it of this Agreement and the performance by it of its obligations hereunder have been duly authorized by all requisite action of its stockholders, partners or members, and by its board of directors or other governing body, and that, subject to compliance with and obtaining all required governmental approvals under any applicable regulatory laws or regulations governing the sale or delivery of Energy, the entering into of this Agreement and the fulfillment of its obligations hereunder does not contravene any law, statute or contractual obligation of Purchaser;

9.1.2 This Agreement constitutes Purchaser's legal, valid and binding obligation enforceable against it 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;

9.1.3 No suit, action or arbitration, or legal administrative or other proceeding is pending or has been threatened against the Purchaser that would have a material adverse effect on the validity or enforceability of this Agreement or the ability of Purchaser to fulfill its commitments hereunder, or that could result in any material adverse change in the business or financial condition of Purchaser;

9.1.4 no governmental approval (other than any governmental approvals which have been previously obtained) is required in connection with the due authorization, execution and delivery of this Agreement by Purchaser or the performance by Purchaser of its obligations hereunder which Purchaser will be unable to obtain in due course; and

9.1.5 The audited financial statements of Purchaser dated the past three calendar years, and the related audited statements of income shareholders' equity and cash flows for the fiscal years ended on such dates and the unaudited interim financial statements of Purchaser, and the related unaudited statements of income, shareholders' equity and cash flows for the most recent period since the last annual audited financial statements (i) were prepared in accordance with generally accepted accounting principles consistently applied throughout the respective periods covered thereby, except as otherwise expressly noted therein, subject to, in the case of the unaudited interim financial statements, normal year-end adjustments and the lack of footnote disclosures; and (ii) present fairly the financial condition of Purchaser as of the dates thereof and results of its operations for the periods covered thereby. Purchaser further represents and warrants to Seller that since the date of the most recent of the above-referenced audited financial statements, there has been no material adverse change in Purchaser's financial condition, business, operations or prospects.

9.2 Representations and Warranties of Seller. Seller represents and warrants to Purchaser that:

9.2.1 Seller has the requisite corporate, partnership or limited liability company capacity to enter into this Agreement and fulfill its obligations hereunder, that the execution and delivery by it of this Agreement and the performance by it of its obligations hereunder have been duly authorized by all requisite action of its stockholders, partners or members, and by its board of directors or other governing body, and that, subject to compliance with and obtaining all required governmental approvals under any applicable regulatory laws or regulations governing the sale or delivery of Energy, the entering into of this Agreement and the fulfillment of its obligations hereunder does not contravene any law, statute or contractual obligation of Seller;

9.2.2 this Agreement constitutes Seller's legal, valid and binding obligation enforceable against it 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;

9.2.3 No suit, action or arbitration, or legal administrative or other proceeding is pending or has been threatened against the Seller that would have a material adverse effect on the validity or enforceability of this Agreement or the ability of Seller to fulfill its commitments hereunder, or that could result in any material adverse change in the business or financial condition of Seller; and

9.2.4 Neither the System nor any of Seller's services provided to Purchaser pursuant to this Agreement infringe on any third party's intellectual property or other proprietary rights.

10. DEFAULTS/REMEDIES.

10.1 Seller Event of Default. Each of the following events shall constitute a "Seller Event of Default":

10.1.1 Seller fails to pay to Purchaser any amount when due under this Agreement and such breach remains uncured for ten (10) Business Days following notice of such breach to Seller;

10.1.2 (i) Seller commences a voluntary case under any bankruptcy law; (ii) Seller fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against Seller in an involuntary case under any bankruptcy law; or (iii) any involuntary bankruptcy proceeding commenced against Seller remains undismissed or undischarged for a period of sixty (60) days; and

10.1.3 Seller materially breaches any other term of this Agreement and (i) if such breach is capable of being cured within thirty (30) days after Purchaser's notice to Seller of such breach, Seller has failed to cure the breach within such thirty (30) day period, or (ii) if Seller has diligently commenced work to cure such breach during such thirty (30) day period but such breach is not capable of cure within such period, Seller has failed to cure the breach within a further one hundred fifty (150) day period (such aggregate period not to exceed one hundred eighty (180) days from the date of Purchaser's notice).

10.2 Purchaser's Remedies. If a Seller Event of Default has occurred and is continuing, Purchaser may terminate this Agreement by written notice to Seller following the expiration of the applicable cure period, and may exercise any other remedy it may have at law or equity, including, in the event such Seller Event of Default occurs and is continuing after the sixth (6th) anniversary of the Commercial Operation Date, exercising the Purchase Option.

10.3 Purchaser Event of Default. Each of the following events shall constitute a "Purchaser Event of Default":

10.3.1 Purchaser fails to pay to Seller any amount when due under this Agreement and such breach remains uncured for ten (10) Business Days following notice of such breach to Purchaser;

10.3.2 (i) Purchaser commences a voluntary case under any bankruptcy law; (ii) Purchaser fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against Purchaser in an involuntary case under any bankruptcy law; or (iii) any involuntary bankruptcy proceeding commenced against Purchaser remains undismissed or undischarged for a period of sixty (60) days;

10.3.3 Owner breaches any of its obligations under the Site License;

10.3.4 Purchaser breaches any of its obligations under Section 2.3.4;

10.3.5 Purchaser ceases to conduct business at the Premises;

10.3.6 Purchaser (i) refuses to execute any document required for Seller to obtain any Environmental Attributes or Environmental Incentives related to the System, or (ii) causes any material change to the condition of the Premises that has a material adverse effect on the System; and

10.3.7 Purchaser materially breaches any other term of this Agreement and such breach remains uncured for thirty (30) days following notice of such breach to Purchaser, or such longer cure period as may be agreed to by the Parties.

10.4 Seller's Remedies. If a Purchaser Event of Default has occurred and is continuing, Seller may terminate this Agreement by written notice to Purchaser following the expiration of the applicable cure period. Seller may also exercise any other remedy it may have at law or equity, including recovering from Purchaser all resulting damages, which damages shall include, but not be limited to, projected payments for Energy generated for the remainder of the Contract Term; the cost of removing the System from the Premises; any loss or damage to Seller due to lost or recaptured Environmental Attributes or Environmental Incentives, including, without limitation, lost revenue from the sale of Environmental Attributes to third parties (including any damages due to the early termination of any agreement for such sale), and the recapture of the investment tax credit under Section 48 of the Internal Revenue Code, the grant in lieu of tax credits pursuant to Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, and accelerated depreciation for the System; and all other amounts of any nature due under this Agreement (collectively, the "PPA Damages"). Pending Purchaser's payment of the PPA

Damages, Seller may remain on the Premises and sell Energy and Environmental Attributes produced by the System to any third party.

10.5 Waiver of Consequential Damages. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THE PARTIES AGREE THAT TO THE FULLEST EXTENT ALLOWED BY LAW, IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE OR LIABLE, WHETHER IN CONTRACT, TORT, WARRANTY, OR UNDER ANY STATUTE OR ON ANY OTHER BASIS, FOR SPECIAL, INDIRECT, INCIDENTAL, MULTIPLE, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS OR LOSS OR INTERRUPTION OF BUSINESS, ARISING OUT OF OR IN CONNECTION WITH THE SYSTEM OR THIS AGREEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE PPA DAMAGES SHALL NOT BE CONSIDERED CONSEQUENTIAL DAMAGES AND SHALL NOT BE SUBJECT TO THE LIMITATIONS SET FORTH IN THIS SECTION.

10.6 Limitation of Liability. SELLER'S MAXIMUM LIABILITY UNDER THIS AGREEMENT (WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE) SHALL IN NO EVENT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) OR THE CUMMULATIVE MAXIMUM VALUE OF INSURANCE PROCEEDS, WHICHEVER IS GREATER.

11. FINANCING ACCOMMODATIONS.

11.1 Purchaser Acknowledgment. Purchaser acknowledges that Seller may finance the System and that Seller's obligations may be secured by, among other collateral, a pledge or collateral assignment of this Agreement and a security interest in the System. In order to facilitate such financing, and with respect to any financing Seller of which Seller has notified Purchaser in writing (each, a "Financing Party"), Purchaser agrees as follows:

11.1.1 Consent to Collateral Assignment. Seller shall have the right to assign this Agreement as collateral for financing or refinancing of the System, and Purchaser hereby consents to the collateral assignment by Seller to any Financing Party of Seller's right, title, and interest in and to this Agreement.

11.1.2 Financing Party's Rights Following Default. Notwithstanding any contrary term of this Agreement:

(a) Financing Party, as collateral assignee, shall be entitled to exercise, in the place and stead of Seller, any and all rights and remedies of Seller under this Agreement in accordance with the terms of this Agreement. Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this Agreement and the System.

(b) Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty, or obligation required of Seller hereunder or cause to be cured any default or event of default of Seller in the time and manner provided by the terms of this Agreement. Nothing herein requires Financing Party to cure any default of Seller (unless Financing Party has succeeded to

Seller's interests) to perform any act, duty, or obligation of Seller, but Purchaser hereby gives Financing Party the option to do so.

(c) Upon the exercise of remedies under its security interest in the System, including any sale thereof by Financing Party, whether by judicial proceeding or under any power of sale, or any conveyance from Seller to Financing Party, Financing Party shall give notice to Purchaser of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a Seller Event of Default.

(d) Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Seller under the United States Bankruptcy Code, at the request of Financing Party made within ninety (90) days of such termination or rejection, Purchaser shall enter into a new power purchase agreement with Financing Party or its assignee on substantially the same terms as this Agreement.

11.1.3 Financing Party Cure Rights. Purchaser shall not exercise any right to terminate or suspend this Agreement unless Purchaser has given prior written notice to each Financing Party of which Purchaser has notice. Purchaser's notice of an intent to terminate or suspend must specify the condition giving rise to such right. Financing Party shall have the longer of thirty (30) days and the cure period allowed for a default of that type under this Agreement to cure the condition; provided that if the condition cannot be cured within such time but can be cured within the extended period, Financing Party may have up to an additional ninety (90) days to cure if Financing Party commences to cure the condition within the thirty (30) day period and diligently pursues the cure thereafter. Purchaser's and Seller's obligations under this Agreement shall otherwise remain in effect, and Purchaser and Seller shall be required to fully perform all of their respective obligations under this Agreement during any cure period.

11.1.4 Continuation Following Cure. If Financing Party or its assignee acquires title to or control of Seller's assets and cures all defaults existing as of the date of such change in title or control within the time allowed by Section 11.1.3, then this Agreement shall continue in full force and effect.

11.2 Notice of Defaults and Events of Default. Purchaser agrees to deliver to each Financing Party a copy of all notices that Purchaser delivers to Seller pursuant to this Agreement.

12. NOTICES. Any notice required, permitted, or contemplated hereunder shall be in writing and addressed to the Party to be notified at the address set forth below or at such other address or addresses as a Party may designate for itself from time to time by notice hereunder. Such notices may be sent by personal delivery or recognized overnight courier, and shall be deemed effective upon receipt.

To Seller: RER PPA, LLC
4700 Pottsville Pike
Reading, PA 19605
Attention: Jim Kurtz
Phone: 917-304-0762

To Purchaser: Madison County
138 N. Court St
Wampsville, NY 13163
Attention: Chairman, Board of Supervisors
Phone: 315.366.2201

With a copy to: William M. Buchan, Esq.
Buchan & Sutter, P.C.
15 Lakeshore Drive
Constantia, NY 13044

Phone: 315.623.7133

13. GOVERNING LAW; DISPUTES.

13.1 Choice of Law. This Agreement shall be construed in accordance with the laws of the State of New York, without regard to its conflict of laws principles.

13.2 Disputes.

13.2.1 Management Negotiations. The Parties shall use all reasonable efforts to settle disputes through negotiation between authorized members of each Party's senior management. Either Party may, by written notice to the other Party, request a meeting to initiate negotiations to be held within fifteen (15) Business Days of the other Party's receipt of such request, at a mutually agreed time and place. If the matter is not resolved within thirty (30) Business Days of their first meeting, either Party may pursue arbitration in accordance with Section 13.2.2.

13.2.2 Arbitration. Any controversy or dispute not amicably resolved by the Parties or through management negotiations shall be settled by binding arbitration. Either Party may initiate arbitration by giving written notice to the other Party. The notice shall state the nature of the claim or dispute, the amount involved, if any, and the remedy sought. The dispute shall be submitted to an independent arbitrator mutually selected by the Parties. If the dispute has a value in excess of \$100,000.00, then at the election of either Party, there shall be a panel of three (3) arbitrators. If the Parties do not mutually agree on the arbitrator(s), the Parties shall then utilize the American Arbitration Association (or another entity mutually acceptable to the Parties) to provide the required independent arbitrator(s). The decision of the appointed independent arbitrator(s) shall be final and binding on the Parties. In rendering a decision, the arbitrator(s) shall comply with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. Notwithstanding that the Construction Industry Arbitration Rules may provide otherwise, the prevailing Party in any such arbitration shall be entitled to recover its arbitration costs, inclusive of counsel, expert, arbitrators' and administrative fees, from the losing Party, as determined by the arbitrator(s). Any such arbitration shall be conducted in Wampsville, NY.

14. INDEMNIFICATION.

14.1 Seller's Indemnity to Purchaser. Seller shall indemnify, defend, and hold harmless Purchaser (including Purchaser's permitted successors and assigns) and Purchaser's subsidiaries, directors, officers, members, shareholders, employees and agents (collectively, "Purchaser Indemnified Parties") from and against any and all third-party claims, losses, costs, damages, and expenses, including reasonable attorneys' fees, incurred by Purchaser Indemnified Parties arising from or relating to (i) Seller's breach of this Agreement, or (ii) Seller's negligence or willful misconduct. Seller's indemnification obligations under this Section 14.1 shall not extend to any claim to the extent such claim is due to the gross negligence or willful misconduct of any Purchaser Indemnified Party.

14.2 Purchaser's Indemnity to Seller. Purchaser shall indemnify, defend, and hold harmless Seller (including Seller's permitted successors and assigns) and Seller's subsidiaries, directors, officers, members, shareholders, employees and agents (collectively, "Seller Indemnified Parties") from and against any and all third-party claims, losses, costs, damages, and expenses, including reasonable attorneys' fees, incurred by Seller Indemnified Parties arising from or relating to (i) Purchaser's breach of this Agreement, or (ii) Purchaser's negligence or willful misconduct. Purchaser's indemnification obligations under this Section 14.2 shall not extend to any claim to the extent such claim is due to the gross negligence or willful misconduct of any Seller Indemnified Party.

15. INSURANCE.

15.1 Insurance Required. Each Party shall maintain in full force and effect throughout the Contract Term, with insurers of recognized responsibility authorized to do business in the State in which the System will be located, assigned an A.M. Best rating of no less than A IX, insurance coverage in the amounts and types set forth on Exhibit C. Each policy of insurance maintained by Purchaser shall (a) name Seller as loss payee (to the extent covering risk of loss or damage to the Premises or the System) and as an additional named insured as its interests may appear (to the extent covering any other risk); and (b) contain endorsements providing that such policy shall not be cancelled or amended with respect to the named insured and its designees without thirty (30) days' prior written notice to Seller. Each policy of insurance maintained by Seller shall (a) name Purchaser as loss payee (to the extent covering risk of loss or damage to the Premises) and as an additional named insured as its interests may appear (to the extent covering any other risk); and (b) contain endorsements providing that such policy shall not be cancelled or amended with respect to the named insured and its designees without thirty (30) days' prior written notice to Purchaser. Each Party shall, within ten (10) days of written request therefor, furnish current certificates of insurance to the other Party evidencing the insurance required hereunder.

15.2 Waiver of Subrogation. Each policy of insurance required hereunder shall provide for a waiver of subrogation rights against the other Party, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of that policy.

15.3 No Waiver of Obligations. The provisions of this Agreement shall not be construed in a manner so as to relieve any insurer of its obligations to pay any insurance proceeds in accordance with the terms and conditions of valid and collectable insurance policies. The

liabilities of the Parties to one another for perils insured under this Agreement shall be limited to the extent of proceeds available from insurance.

16. CONFIDENTIAL INFORMATION.

16.1 Confidentiality. Neither Party (the “Receiving Party”) shall use for any purpose other than performing its obligations under this Agreement or divulge, disclose, produce, publish, or permit access to, without the prior written consent of the other Party (the “Disclosing Party”), any confidential information of the Disclosing Party. Confidential information includes, without limitation, this Agreement and exhibits hereto; all information or materials prepared in connection with the System; drawings; specifications; techniques; models; data; documentation; Purchaser, supplier, or personnel names and other information related to Purchasers, suppliers, or personnel; pricing policies and financial information; and other information of a similar nature, whether or not reduced to writing or other tangible form, and any other trade secrets. Confidential information does not include (a) information known to the Receiving Party prior to obtaining the same from the Disclosing Party; (b) information in the public domain at the time of disclosure by the Receiving Party; or (c) information obtained by the Receiving Party from a third party who did not receive same, directly or indirectly, from the Disclosing Party. The Receiving Party shall use the higher of the standard of care that the Receiving Party uses to preserve its own confidential information or a reasonable standard of care to prevent unauthorized use or disclosure of such confidential information. Notwithstanding anything herein to the contrary, the Receiving Party has the right to disclose Confidential Information without the prior written consent of the Disclosing Party (i) as required by any court or other Governmental Authority, or by any stock exchange on which the shares of any Party are listed; (ii) as otherwise required by law; (iii) as advisable or required in connection with any government or regulatory filings, including, without limitation, filings with any regulating authorities covering the relevant financial markets; (iv) to its attorneys, accountants, financial advisors, or other agents, in each case bound by confidentiality obligations; (v) to banks, investors, and other financing sources and their advisors, in each case if any such Person has agreed to abide by the terms of this Section 16.1; (vi) in connection with an actual or prospective merger or acquisition or similar transaction where the party receiving the Confidential Information is bound by the same or similar confidentiality obligations; or (vii) to any Governmental Authority in connection with any Environmental Incentive. If a Receiving Party believes that it will be compelled by a court or other Governmental Authority to disclose Confidential Information of the Disclosing Party, it shall give the Disclosing Party prompt written notice so that the Disclosing Party may determine whether to take steps to oppose such disclosure.

16.2 Irreparable Injury; Remedies. Purchaser and Seller each agree that disclosing Confidential Information of the other Party in violation of the terms of this Article 16 may cause irreparable harm, and that, notwithstanding Section 10.5, the harmed Party may immediately seek any and all remedies available to it at law or in equity, including, but not limited to, injunctive relief from a court of competent jurisdiction.

1. **FOIL**. For the avoidance of doubt, nothing in this Agreement shall be construed as prohibiting Purchaser from disclosing Confidential Information or information of any kind to the extent it is required to be disclosed pursuant to the New York State Freedom of Information Law.

17. MISCELLANEOUS.

17.1 Assignments. Neither Party shall have the right to assign any of its rights, duties, or obligations under this Agreement without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed. The foregoing notwithstanding, Seller may assign any of its rights, duties, or obligations under this Agreement, without the consent of Purchaser, (i) to any of its Affiliates, (ii) to any third party in connection with a financing transaction, or (iii) to any purchaser of the System. Purchaser shall have the right without prior approval to assign this Agreement to the Madison County Public Utility Service, provided however, that Madison County shall remain responsible for the faithful performance of the assignee or provide a guarantee of assignee's performance reasonably acceptable to Seller.

17.2 Entire Agreement. This Agreement and the Site License represent the full and complete agreement between the Parties hereto with respect to the subject matter contained herein and supersedes all prior written or oral agreements between the Parties with respect to the subject matter hereof.

17.3 Amendments. This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Purchaser.

17.4 No Partnership or Joint Venture. Seller and Seller's agents, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of Purchaser. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement).

17.5 Headings; Exhibits. The headings in this Agreement are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Agreement. Any Exhibits referenced within and attached to this Agreement, including any attachments to the Exhibits, shall be a part of this Agreement and are incorporate by reference herein.

17.6 Remedies Cumulative; Attorneys' Fees. No remedy herein conferred upon or reserved to any Party shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. If any action, arbitration, judicial reference, or other proceeding is instituted between the Parties in connection with this Agreement, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' and experts' fees and costs incurred in bringing or defending such action or proceeding (at trial and on appeal) and/or enforcing any judgment granted therein.

17.7 Waiver. The waiver by either Party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein. Any such waiver must be in a writing executed by the Party making such waiver.

17.8 Severability. If any part, term, or provisions of this Agreement is determined by an arbitrator or court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect or impair the validity, legality, or enforceability of any other part, term, or provision of this Agreement and shall not render this Agreement unenforceable as a whole. Instead, the part of the Agreement found to be invalid, unenforceable, or illegal shall be amended, modified, or interpreted to the extent possible to most closely achieve the intent of the Parties and in the manner closest to the stricken provision.

17.9 No Public Utility. Nothing contained in this Agreement shall be construed as an intent by Seller to dedicate the System to public use or subject itself to regulation as a “public utility” (as such term may be defined under any applicable law).

17.10 Service Contract. The Parties acknowledge and agree that, for accounting and tax purposes, this Agreement is not and shall not be construed as a capital lease and, pursuant to Section 7701(e)(3) of the Internal Revenue Code, this Agreement is and shall be deemed to be a service contract for the sale to Purchaser of energy produced at an alternative energy facility.

17.11 Forward Contract. The Parties acknowledge and agree that the transaction contemplated under this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.

17.12 Publicity. The Parties agree that each may, from time to time, issue press releases regarding the System, provided, however that neither Party shall issue a press release regarding the System without the prior consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Parties shall cooperate with each other in connection with the issuance of such press releases. Purchaser shall not make claims of using solar energy at the Premises. Purchaser may publicize that it is serving as a host for the System and display photographs of the System in its advertising and promotional materials, provided that such materials shall identify Seller as the owner and developer of the System and shall be consistent with Section 2.3.

17.13 Counterparts and Facsimile Signatures. This Agreement may be executed in counterparts, which shall together constitute one and the same agreement. Facsimile or portable document format (“.PDF”) signatures shall have the same effect as original signatures, and each Party consents to the admission in evidence of a facsimile or photocopy of this Agreement in any court or arbitration proceedings between the Parties.

17.14 Further Assurances.

17.14.1 Additional Documents. Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments, and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition, or delay its compliance with any reasonable request made pursuant to this section.

17.14.2 Certificates. From time to time, Purchaser shall provide within five (5) Business Days after receipt of a written request from Seller (i) a lien waiver from any party purporting to have a lien, security interest, or other encumbrance on the Premises, confirming that

it has no interest in the System, or (ii) an estoppel certificate attesting, to the knowledge of Purchaser, of Seller's compliance with the terms of this Agreement or detailing any known issues of noncompliance, and making such other representations, warranties, and accommodations reasonably requested by the recipient of the estoppel certificate.

17.14.3. Opinion. Upon the receipt of a written request from Seller, Purchaser shall deliver an opinion of counsel, in form and substance satisfactory to Seller, confirming (i) the enforceability of this Agreement and the Site License against Buyer, and (ii) the accuracy of the representations and warranties of Purchaser set forth in Section 9.1 of this Agreement and Section 6.1 of the Site License.

17.15 NYSERDA PON 2956 Requirements

17.15.1 Renewables Portfolio Standard (RPS) Attributes. Orders issued by the Public Service Commission provide that the RPS Program will support and promote an increase, to 30%, of the percentage of the energy consumed in New York State that comes from renewable sources. When assessing and reporting on progress towards that goal, or on the composition of the energy generated and/or consumed in NYS, NYSERDA and the NYS Department of Public Service will include all electrical energy created by any project receiving funds through the NYS RPS Customer-Sited Tier Program, regardless of the percentage of the project capacity included on the Bid Application Form, for the life of such projects, and the environmental attributes associated with such energy, whether metered or projected, as a part of any report, evaluation, or review of the RPS Program, whenever any such report, evaluation, or review may be conducted or issued, as renewable energy consumed in NYS. No party, including but not limited to owners, lessees/lessors, operators, and/or associated contractors shall agree to or enter any transaction that would or may be intended to result in the exportation or transmittal of any electrical energy created by any project receiving funds through the NYS RPS Customer-Sited Tier Program to any party or system outside of New York State.

17.15.2 Publicity and Site Events. Customer will allow photographs of the Project Site with explicit permission for NYSERDA to use, reproduce, distribute, exhibit, alter, publish or otherwise use such photographs in all forms, manner, including composite or distorted representations, and media, including electronic, print, digital, or electronic publishing via the Internet, and for all purposes, including advertising, trade, or any other lawful purposes

17.15.3 Inspection/Reporting/Commissioning. Contractor will allow NYSERDA, its technical contractor, or Data Agent to conduct Site Inspections or remote monitoring services. Contractor will obtain permission from the Customer for NYSERDA, its technical contractor, or Data Agent to inspect the Installation location or perform remote monitoring services. Contractor will arrange access to the Project Site upon requests by NYSERDA, its technical contractor, or Data Agent.

17.16 Article 9-103(2) Compliance. This contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefor shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract.

17.17 **Non-Substitution.** In the rare event of non-appropriation or lack of availability of funds by the Purchaser for the purpose of the contract, Purchaser agrees not to purchase, lease, rent, borrow, seek appropriations for, acquire or otherwise procure any other energy contract or obligation or similar service contract under which it is a party before purchasing energy from the Seller under the terms of this Agreement.

[SIGNATURE PAGES FOLLOW]

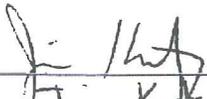
IN WITNESS WHEREOF, the Parties have caused this Power Purchase Agreement to be duly executed and delivered as of the Effective Date.

SELLER

PURCHASER

RER PPA, LLC

Madison County

By: 
Name: Jim Kutz
Title: President

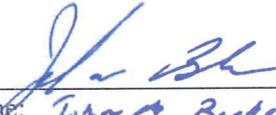
By: 
Name: John A. Becker
Title: Chairman

EXHIBIT A

DEFINITIONS

“Affiliate” means, with respect to any person or entity, any other person or entity controlling, controlled by or under common control with such first person or entity. For purposes of this definition and this Agreement, the term “control” (and correlative terms) means the right and power, directly or indirectly through one or more intermediaries, to direct or cause the direction of substantially all of the management and policies of a person or entity through ownership of voting securities or by contract, including, but not limited to, the right to fifty percent (50%) or more of the capital or profits of a partnership or, alternatively, ownership of fifty percent (50%) or more of the voting stock of a corporation.

“Agreement” has the meaning set forth in the Preamble.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

“Commencement of Installation Date” means the date on which physical work of a significant nature relating to the installation of the System on the Project Site commences.

“Commercial Operation Date” means the date on which the System begins to produce energy at least 50% of its rated power, as set forth in Exhibit B.

“Confidential Information” has the meaning set forth in Section 16.1.

“Contract Term” has the meaning set forth in Section 2.2.

“Contract Year” means the twelve (12) month period commencing on the Commercial Operation Date, and each consecutive twelve (12) month period thereafter during the Contract Term.

“Delivery Point” means the point of interconnection between the System and the utility grid.

“Downgrade Event” means Purchaser at any time (a) if rated by one of the following rating agencies, is rated less than (i) Baa3 by Moody’s Investors Service, Inc. (or its successor), or (ii) BBB- by Standard and Poor’s Rating Services, a division of McGraw-Hill (or its successor), or (iii) “investment grade” by any other nationally recognized rating agency, or (b) fails to maintain Performance Assurance.

“Effective Date” has the meaning set forth in the Preamble.

“Energy” means electrical energy that is generated by the System, expressed in kWh.

“Energy Price” means, for any Contract Year, the applicable amount set forth on Exhibit D.

“Environmental Attributes” means any and all environmental benefits, air quality credits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to energy generation by a renewable fuel source and its displacement of energy generation by conventional, nonrenewable, and/or carbon-based fuel sources. Environmental Attributes include, but are not limited to, (1) any benefit accruing from the renewable nature of the generation’s motive source; (2) 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 other than those that are regulated pursuant to state or federal law); (3) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), and other greenhouse gases that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; (4) any property rights that may exist with respect to the foregoing attributes howsoever entitled; (5) any green tags, renewable energy credits or similar credits, including RECs created pursuant to applicable law (“RECs”); and (6) any reporting rights to these avoided emissions, including, but not limited to, green tag or REC reporting rights. Environmental Attributes do not include (i) any energy, capacity, reliability, or other power attributes, (ii) Environmental Incentives, or (iii) emission reduction credits encumbered or used for compliance with local, state, or federal operating and/or air quality permits.

“Environmental Incentives” means any and all financial incentives, from whatever source, related to the construction, ownership, or operation of the System. Environmental Incentives include, but are not limited to, (i) federal, state, or local tax credits; (ii) any other financial incentives in the form of credits, reductions, or allowances that are applicable to a local, state, or federal income taxation obligation; and (iii) other grants, rebates, or subsidies, including utility incentive programs. Environmental Incentives do not include Environmental Attributes.

“Estimated Production” has the meaning set forth in Section 2.1.3.

“Exercise Period” has the meaning set forth in Section 5.2.

“Financing Party” has the meaning set forth in Section 11.1.

“Force Majeure” means any act or event that delays or prevents a Party from timely performing obligations under this Agreement or from complying with conditions required under this Agreement if such act or event, despite the exercise of reasonable efforts, cannot be avoided by, and is beyond the reasonable control of and without the fault or negligence of, the Party relying thereon as justification for such delay, nonperformance, or noncompliance, which includes, without limitation, an act of God or the elements, site conditions, extreme or severe weather conditions, explosion, fire, epidemic, landslide, mudslide, sabotage, terrorism, lightning, earthquake, flood, volcanic eruption or similar cataclysmic event, an act of public enemy, war, blockade, civil insurrection, riot, civil disturbance, or strike or other labor difficulty caused or suffered by a Party or any third party beyond the reasonable control of such Party. However, financial cost alone or as the principal factor shall not constitute grounds for a claim of Force Majeure.

“Governmental Authorities” means any national, state, regional, municipal or local government, any political subdivision thereof, or any governmental, quasi-governmental, regulatory, judicial or administrative agency, authority, commission, board or similar entity having

jurisdiction over the System or its operations, the Premises, the Project Site or otherwise over any Party.

“Independent Appraiser” has the meaning set forth in Section 5.2.

“Interest Rate” means an annual rate equal to the lesser of (a) twelve (12) percent and (b) the highest interest rate permitted by applicable law.

“kWh” means kilowatt-hours.

“Letter of Credit” means one or more irrevocable, transferable standby letters of credit issued by either a U.S. commercial bank or a foreign bank with a U.S. branch, with such bank having a credit rating of at least “A-” from S&P or “A3” from Moody’s, in a form acceptable to Seller.

“Net Metering Rules” means the rules established pursuant to Public Service Law (PSL) 66-j.

“Owner” means Purchaser, in its capacity as owner of the Project Site.

“Party” and “Parties” have the meanings set forth in the Preamble.

“Performance Assurance” means collateral in an amount as reasonably determined by Seller and in a form (e.g., cash, Letter(s) of Credit, guaranty, or other security or credit assurance) reasonably acceptable to Seller.

“Person” means any individual, corporation (including, without limitation, any non-stock or non-profit corporation), limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or governmental body.

“PPA Damages” has the meaning set forth in Section 10.4.

“Premises” means all the real property and improvements commonly known as **Madison County ARE Park** located at **Buyea Road, Town of Lincoln, Madison County New York** including without limitation, the Project Site, but not the System.

“Project Site” means has the meaning set forth in the Site License.

“Price Determination” has the meaning set forth in Section 5.2.

“Prudent Operating Practice” means the practices, methods, and standards of professional care, skill, and diligence engaged in or approved by a significant portion of the electric power industry for solar energy facilities of similar size, type, and design as the System that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with applicable law, reliability, safety, environmental protection, applicable codes, and standards of economy and expedition.

“Purchase Option” has the meaning set forth in Section 5.1.

“Purchase Price” has the meaning set forth in Section 5.2.

“Purchase Option Dates” has the meaning set forth in Section 5.1.

“Purchaser” has the meaning set forth in the Preamble.

“Purchaser Event of Default” has the meaning set forth in Section 10.3.

“Purchaser Indemnified Parties” has the meaning set forth in Section 14.1.

“Seller” has the meaning set forth in the Preamble.

“Seller Event of Default” has the meaning set forth in Section 10.1.

“Seller Indemnified Parties” has the meaning set forth in Section 14.2.

“Site License” has the meaning set forth in the Recitals.

“System” means the solar energy generating system described in Exhibit B.

“Transfer Date” has the meaning set forth in Section 5.3.

“Utility” means Niagara Mohawk Power Corporation dba National Grid.

EXHIBIT C

INSURANCE REQUIREMENTS

(a) Seller shall obtain and maintain the following insurance policies:

(i) Workers' compensation insurance, with limits of liability at least equal to the statutory requirements therefor;

(ii) Employer's liability insurance of not less than one million dollars (\$2,000,000);

(iii) Comprehensive general liability insurance against liability for injury to or death of any Person or damage to property in connection with the use, operation or condition of the System of not less than one million dollars (\$2,000,000) combined single limit per occurrence and annual aggregate. Purchaser shall be named as an additional insured under this liability insurance, provided however that Seller shall in no event be obligated to repair or replace Purchaser's buildings or Premises;

Seller shall maintain an Umbrella Policy with limits not less than \$5,000,000 per occurrence.

(iv) Seller may satisfy the insurance requirements contained in this Agreement though any combination of primary and/or excess coverage; and

(v) Seller may elect to self-insure any or all of the insurance requirements contained in this Agreement.

(b) Purchaser shall obtain and maintain the following insurance policies:

(i) Workers' compensation insurance, with limits of liability at least equal to the statutory requirements therefor;

(ii) Employer's liability insurance of not less than one million dollars (\$2,000,000);

(iii) Comprehensive general liability insurance against liability for injury to or death of any Person or damage to property in connection with the use, operation or condition of the Premises of not less than one million dollars (\$2,000,000) combined single limit per occurrence and annual aggregate. Seller shall be named as an additional insured under this liability insurance;

(iv) Purchaser may satisfy the insurance requirements contained in this Agreement though any combination of primary and/or excess coverage; and

(v) Purchaser may elect to self-insure any or all of the insurance requirements contained in this Agreement.

EXHIBIT D

ENERGY PRICE

<i>Contract Year</i>	<i>Energy Price (\$/kWh)</i>
1	0.066
2	0.066
3	0.066
4	0.066
5	0.066
6	0.066
7	0.066
8	0.066
9	0.066
10	0.066
11	0.066
12	0.066
13	0.066
14	0.066
15	0.066
16	0.066
17	0.066
18	0.066
19	0.066
20	0.066
21	0.066
22	0.066
23	0.066
24	0.066
25	0.066

EXHIBIT E

MINIMUM SYSTEM PURCHASE PRICE [TO BE PROVIDED, AMENDED IN THIS AGREEMENT, AND AGREED TO PRIOR TO SYSTEM CONSTRUCTION]

<i>Contract Year</i>	<i>Minimum System Purchase Price</i>
6	Fair Market Value
7	Fair Market Value
8	Fair Market Value
9	Fair Market Value
10	Fair Market Value
11	Fair Market Value
12	Fair Market Value
13	Fair Market Value
14	Fair Market Value
15	Fair Market Value
16	Fair Market Value
17	Fair Market Value
18	Fair Market Value
19	Fair Market Value
20	Fair Market Value
21	Fair Market Value
22	Fair Market Value
23	Fair Market Value
24	Fair Market Value
25	Fair Market Value

EXHIBIT F

ESTIMATED SYSTEM PRODUCTION

<i>Contract Year</i>	<i>Estimated Production*</i>
1	2,866,517
2	2,852,184
3	2,837,923
4	2,823,734
5	2,809,615
6	2,795,567
7	2,781,589
8	2,767,681
9	2,753,843
10	2,740,074
11	2,726,373
12	2,712,741
13	2,699,178
14	2,685,682
15	2,672,253
16	2,658,892
17	2,645,598
18	2,632,370
19	2,619,208
20	2,606,112
21	2,593,081
22	2,580,116
23	2,567,215
24	2,554,379
25	2,541,607

*Note: these values are estimates only and actual production may vary. Seller does not guarantee any level of actual production.