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Also admitted in Massachusetts

January 22, 2019

Luly E. Massaro
Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Blvd.
Warwick, RI 02888

Re: Docket No. 4917

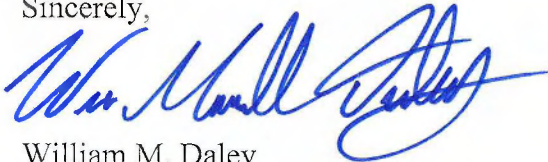
**PETITION OF ENERGY DEVELOPMENT PARTNERS, LLC FOR DECLARATORY JUDGMENT
ON R.I. GEN. LAWS § 39-26.4, THE NET METERING ACT: EDP'S RESPONSES TO THE
PUC'S DATA REQUESTS.**

Dear Ms. Massaro:

Please find, enclosed for filing, Energy Development Partners, LLC's ("EDP") responses to the Public Utilities Commission's First Set of Data Requests Directed to EDP. I am enclosing an original and nine (9) copies, and I will send electronic copies to the Service List. If anyone on the Service List requests it, I will provide a hard copy.

Should you have any questions concerning this filing please contact me at either the telephone number or email address listed above. Thank you.

Sincerely,



William M. Daley

Enclosures

Copy to: PUC Docket No. 4917 Service List (*via email*)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PETITION OF ENERGY
DEVELOPMENT PARTNERS, LLC FOR
DECLARATORY JUDGMENT ON RHODE
ISLAND GENERAL LAWS § 39-26.4-1, *ET SEQ.*,
THE NET METERING ACT

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: Docket No.: 4917
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**ENERGY DEVELOPMENT PARTNERS, LLC'S RESPONSES TO THE
RHODE ISLAND PUBLIC UTILITIES COMMISSION'S FIRST SET OF DATA
REQUESTS**

Energy Development Partners, LLC, a Rhode Island limited liability company ("EDP"), hereby submits its responses to the Rhode Island Public Utilities Commission's ("PUC") First Set of Data Requests Directed to Energy Development Partners (the "Requests"). In response, EDP states as follows:

PUC 1-1: Please identify the public entity(ies) on whose behalf EDP has filed the instant petition.

RESPONSE:

EDP brought the instant petition in its own regard, so as to clarify that an irrevocable license satisfies the owned or controlled requirement found in R.I. Gen. Laws § 39-26.4, and other similar laws.

R.I. Gen. Laws § 39-26.4-2 provides that the property must be either owned or controlled by a "public entity, educational institution, hospital, or one of the municipalities, as applicable (collectively, these eligible institutions are referred to as the "Eligible Net Metering Customer").

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**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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**IN RE: PETITION OF ENERGY
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ISLAND GENERAL LAWS § 39-26.4-1, *ET SEQ.*,
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**ENERGY DEVELOPMENT PARTNERS, LLC'S RESPONSES TO THE
RHODE ISLAND PUBLIC UTILITIES COMMISSION'S FIRST SET OF DATA
REQUESTS**

PUC 1-2: Where is the land at issue located?

RESPONSE:

The land at issue includes portions of the following three parcels:

1. 14.493 acre parcel located in Portsmouth, Rhode Island, known as Portsmouth Assessor's Plat 43 Lot 1C, also known as "Melville Solar Power, LLC";
2. 2.814 acre parcel located in Middletown, Rhode Island, known as Middletown Assessor's Plat 101, Lot 22, also known as "Green Lane Solar Power LLC"; and
3. 4.934 acre parcel, located in Middletown, Rhode Island, known as Middletown Assessor's Plat 104 Lot 2, also known as "Coddington Cove Solar Power, LLC" (collectively, the "Property").¹

The Property is shown on the plans attached hereto as **Exhibit 1-2**.

¹ The Coddington Cove Solar Power, LLC project site was granted a Certificate of Eligibility pursuant to the RE Growth Program, which was formed pursuant to R.I. Gen. Laws 39-26.6-1, *et seq.* That Program similarly requires site control.

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**ENERGY DEVELOPMENT PARTNERS, LLC'S RESPONSES TO THE
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REQUESTS**

PUC 1-3: Please explain the restrictions that are in place that prevent the execution of a ground lease or easement to the public entity(ies).

RESPONSE:

The entity that leases the subject Property from the United States of America, Department of the Navy, may only license the property to third parties. The license in this case has been reviewed and consented to by the Department of the Navy.

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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PUC 1-4: Does an irrevocable license attach to the land or is it personal to the landowner?

RESPONSE:

Given that the license, and the rights granted therein, is irrevocable by its terms, the license attaches to the subject land of the servient estate. In other words, the license holder has the right to control the property. Further, the holder of the license—here the Eligible Net Metering Customer—becomes the dominant estate, which can exert control over the property.

A notice of license for each parcel will be recorded in the land evidence records.

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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**ENERGY DEVELOPMENT PARTNERS, LLC'S RESPONSES TO THE
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REQUESTS**

PUC 1-5: What is the minimum term of an irrevocable license that would be entered into between the developer, public entity, and the owner of the property?

RESPONSE:

The irrevocable license granted to EDP has an initial term of twenty-five (25) years, along with the option, to renew the license for two five (5)-year periods thereafter. In total, this would provide licensee with the option of keeping the irrevocable license in place for a period of thirty-five (35) years.

The sublicense that will be issued to the Eligible Net Metering Customer will be for the duration of the Net Metering Credit Sale Agreement, which has a stated term of twenty-five years.

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**ENERGY DEVELOPMENT PARTNERS, LLC'S RESPONSES TO THE
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REQUESTS**

PUC 1-6: What are the terms, if any, under which an irrevocable license could be revoked?

RESPONSE:

Pursuant to the terms of the irrevocable license issued to EDP with regard to the Property, the irrevocable license is terminable after an event of default under the license and the licensee's failure to cure within the appropriate time period. *See* Solar Power Site License (Commercial), attached hereto as **Attachment 1-6 A**.

Further, upon the occurrence of a Force Majeure event, EDP may, if they are unable to come to terms on an amended license, terminate the license. Under the license, an event of Force Majeure is defined as "any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure." This includes things like war; act of god; sabotage; riot; 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; abnormal weather condition or actions of the elements.

The terms of the sublicense to the Eligible Net Metering Customer will mirror the Solar Power Site License, but it would allow for the sublease to terminate when the Net Metering Credit Sale Agreement terminates. *See* Solar Power Site Sublicense, attached hereto as **Attachment 1-6 B**.

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**ENERGY DEVELOPMENT PARTNERS, LLC'S RESPONSES TO THE
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REQUESTS**

PUC 1-7: Has an irrevocable license been executed in any of the projects that are the subject of the instant declaratory judgment request? If so, when?

RESPONSE:

Yes, the current Property lessor and Energy Development Partners entered into a Solar Power Site License (Commercial), dated June 21, 2016, as amended by the October 31, 2017 First Amendment to Solar Power Site License and the November 28, 2018 Second Amendment to Solar Power Site License. *See also* Solar Power Site License (Commercial), attached hereto as **Attachment 1-6 A** (including the First and Second Amendment to Solar Power Site License).

To date, no other licenses for the Property have been executed with any parties.

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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REQUESTS**

PUC 1-8: Please provide an example of an irrevocable license for purposes of meeting the requirements of site control under the Net Metering Act.

RESPONSE:

Please see the copy of the June 21, 2016 Solar Power Site License (Commercial) attached hereto as **Attachment 1-6 A**. Further, a copy of the proposed sublicense to the Eligible Net Metering Customer—the Solar Power Site Sublicense—is attached hereto as **Attachment 1-6 B**.

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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**ENERGY DEVELOPMENT PARTNERS, LLC'S RESPONSES TO THE
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PUC 1-9: Is an irrevocable license recorded with the register of deeds?

RESPONSE:

No, the license or sublicense itself will not be recorded but, given that the irrevocable license to be issued to the Eligible Net Metering Customer is for a period of years, a notice of license will be recorded in the local land evidence records. Attached please find a copy of a draft form of notice—attached as **Attachment 1-9**. The Solar Power Site Sublicense further indicates that such a notice will be filed as well. *See also* Solar Power Site Sublicense, attached hereto as **Attachment 1-6 B**.

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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PUC 1-10: Has The Narragansett Electric Company d/b/a National Grid (National Grid) reviewed any project(s) subject to the instant petition for interconnection? If so, what is the status of the interconnection application?

RESPONSE:

Yes, The Narragansett Electric Company d/b/a National Grid ("National Grid") has reviewed three projects at the Property, with regard to interconnection. All three of those projects are the subject of a fully-executed Interconnection Service Agreement ("Agreement") with National Grid.

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**ENERGY DEVELOPMENT PARTNERS, LLC'S RESPONSES TO THE
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REQUESTS**

PUC 1-11: If the response to PUC-1-10 is in the affirmative, please identify the project(s), including an identifier National Grid would be able to look up.

RESPONSE:

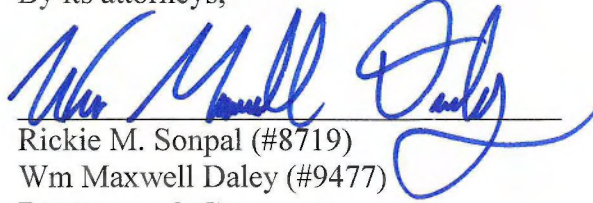
The aforementioned projects, referenced in response to PUC-1-10, are identified by the following entity names and application numbers:

1. Melville Solar Power, LLC, application number 23031444, effective date of the Agreement on or about June 19, 2017, with a First Amended entered into on August 18, 2017;
2. Green Lane Solar Power LLC, application number 23031866, effective date of the Agreement on or about May 3, 2017; and
3. Coddington Cove Solar Power, LLC, application number 23032684, effective date of the Agreement on or about October 11, 2017.

Respectfully submitted,

ENERGY DEVELOPMENT PARTNERS, LLC,

By its attorneys,



Rickie M. Sonpal (#8719)

Wm Maxwell Daley (#9477)

ROBINSON & COLE LLP

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Providence, RI 02903

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rsonpal@rc.com

wdaley@rc.com

Dated: January 22, 2019

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of January 2019:

X I electronically filed and served this document through electronic mail upon the following parties:

Division of Public Utilities & Carriers:

Jon.hagopian@dpuc.ri.gov;
John.bell@dpuc.ri.gov;
Al.mancini@dpuc.ri.gov;
Jonathan.Schrag@dpuc.ri.gov.

Public Utilities Commission:

Luly.massaro@puc.ri.gov;
Cynthia.WilsonFrias@puc.ri.gov;
Todd.bianco@puc.ri.gov;
Alan.nault@puc.ri.gov.

National Grid:

Raquel.webster@nationalgrid.com;
Joanne.scanlon@nationalgrid.com;
Brooke.Skulley@nationalgrid.com.

Office of Energy Resources:

Christopher.Kearns@energy.ri.gov;
Andrew.Marcaccio@doa.ri.gov;
Nicholas.ucci@energy.ri.gov.

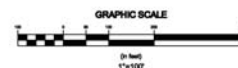
X I mailed an original of this document, and nine (9) copies to the party indicated below:

Luly E. Massaro, Commission Clerk
Public Utilities Commission
89 Jefferson Blvd.
Warwick, RI 02888

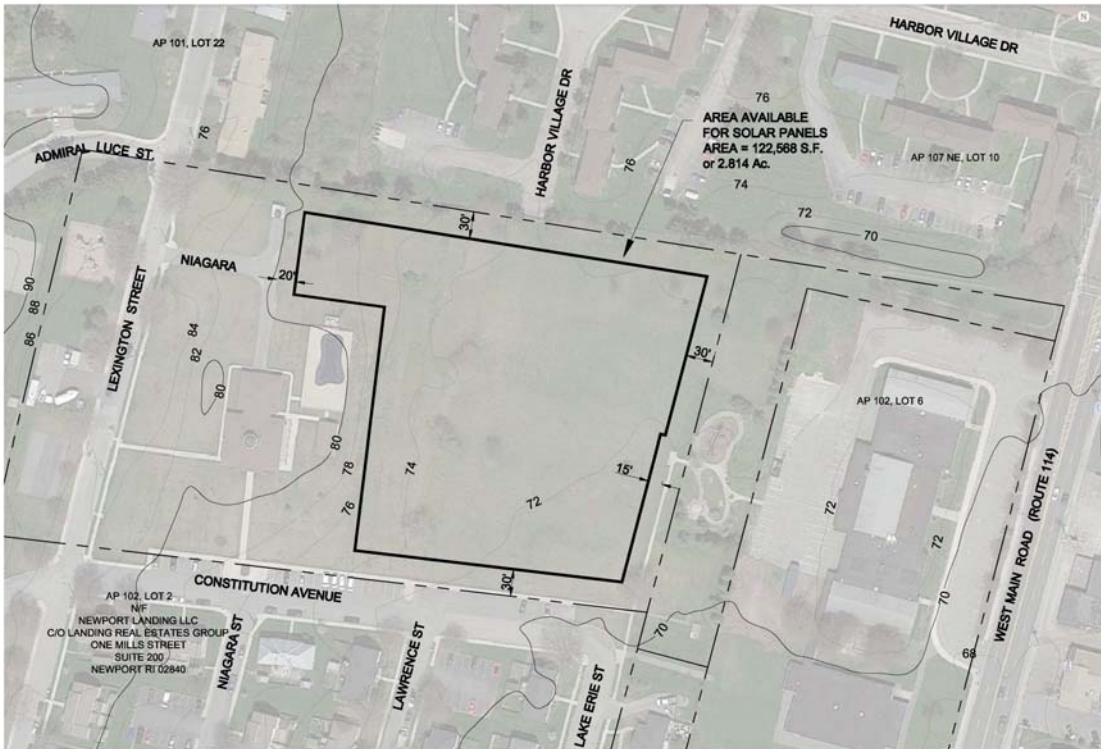
/s/ William M. Daley
William M. Daley

**EDP'S EXHIBIT
1-2**

PUC Docket No.: 4917



No.	Revision	Date	App.
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Client/Owner:			
Issued for:			
Drawing Title:			
<p align="center">MELVILLE HOUSING PORTSMOUTH, RHODE ISLAND SOLAR PANEL LOCATION</p>			
Drawing Number:		C-1	
Sheet:		1 of 1	
Project Number:		14130	
Survey Index:		-- --	
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Scale	1"=50'	Date	
Project Title			
BALFOUR BEATTY HOUSING GROUND MOUNTED SOLAR PROJECT			
Client/Owner			
Issued for:			
Drawing Title			
CODDINGTON COVE MIDDLETOWN, RHODE ISLAND SOLAR PANEL LOCATION			
Drawing Number			
C-1			
Sheet 1 of 1			
Project Number			
14130			
Survey Index			
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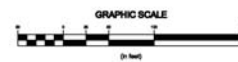
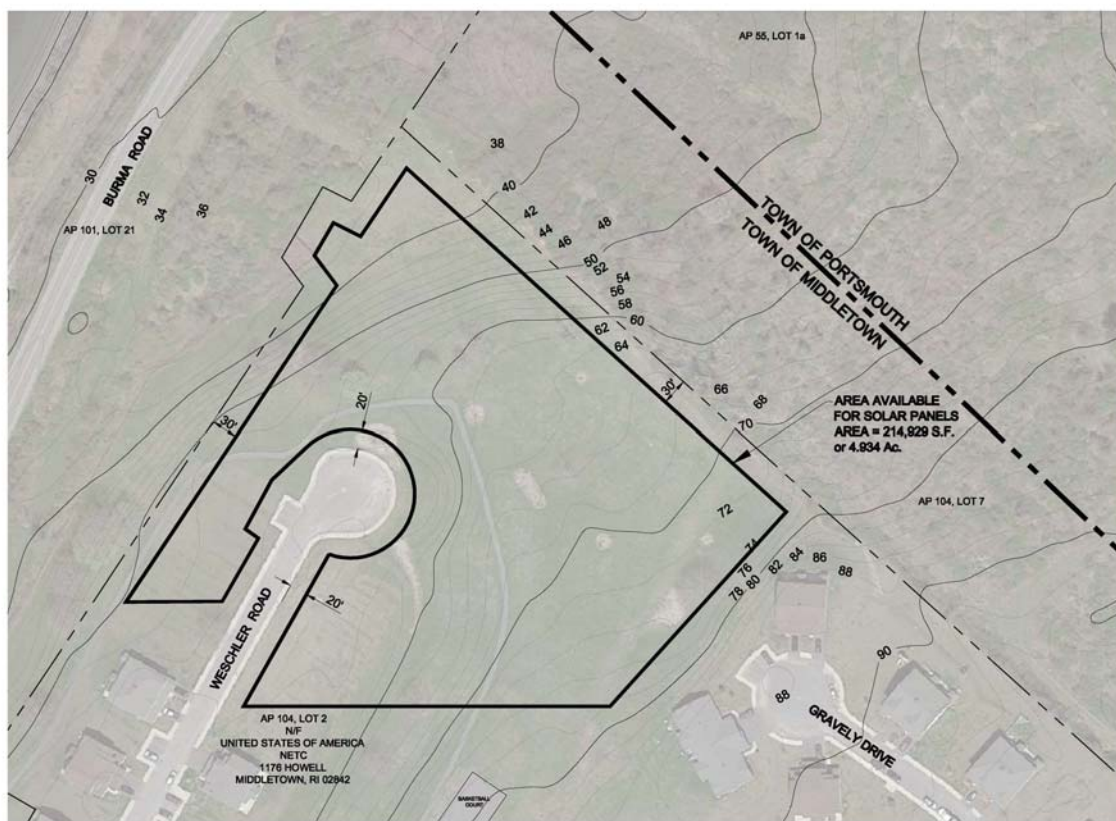
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Scale: 1"=50'			
Project Title: BALFOUR BEATTY HOUSING GROUND MOUNTED SOLAR PROJECT			
Client/Owner:			
Issued for:			
Drawing Title: GREENE LANE MIDDLETOWN, RHODE ISLAND SOLAR PANEL LOCATION			
Drawing Number: C-1		Sheet: 1 of 1	
Project Number: 14130		Survey Index:	
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**EDP'S EXHIBIT
1-6 A**

PUC Docket No.: 4917



Solar Power Site License (Commercial)

This Solar Power Site License (this "License") is entered into by the parties listed below (each a "Party" and collectively the "Parties") as of the date signed by Licensee below (the "Effective Date").

Licensors:		Licensee:	Energy Development Partners
Name and Address	c/o Balfour Beatty Communities, LLC One Country View Road Malvern, PA 19355	Name and Address	Energy Development Partners 260 West Exchange Street Providence, RI 02903 Attention: Frank Epps
Phone	610.355.8100	Phone	401-349-1229
E-mail	lcohn@bbcgrp.com	E-mail	frank@edp-energy.com

This License sets forth the terms and conditions on which Licensors is granting a license to Licensee for the installation and operation of a solar panel system described in Exhibit 1 (the "System") on and above, but not under, the surface of the Licensors's premises described in **Exhibit 1** (the "Premises") for the purpose of generating and selling electricity and associated attributes and incentives under a power purchase agreement to be entered into between Licensee and a third party (the "PPA"). For avoidance of doubt, the rights granted to and the obligation imposed by this License with respect to the Premises shall not include any rights or obligations with respect to the subsurface of the Premises.

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


Exhibit 1 System and Premises Description
Exhibit 2 Terms and Conditions

Licensors: [REDACTED]
By: BBC Military Housing – Navy Northeast LLC, its
managing member

By: Balfour Beatty Military Housing Investments LLC, its
manager

Energy Development Partners

Signature: 

Signature: 

Printed Name: Leslie S. Cohn

Printed Name: Frank A. Epps

Title: Executive Vice President

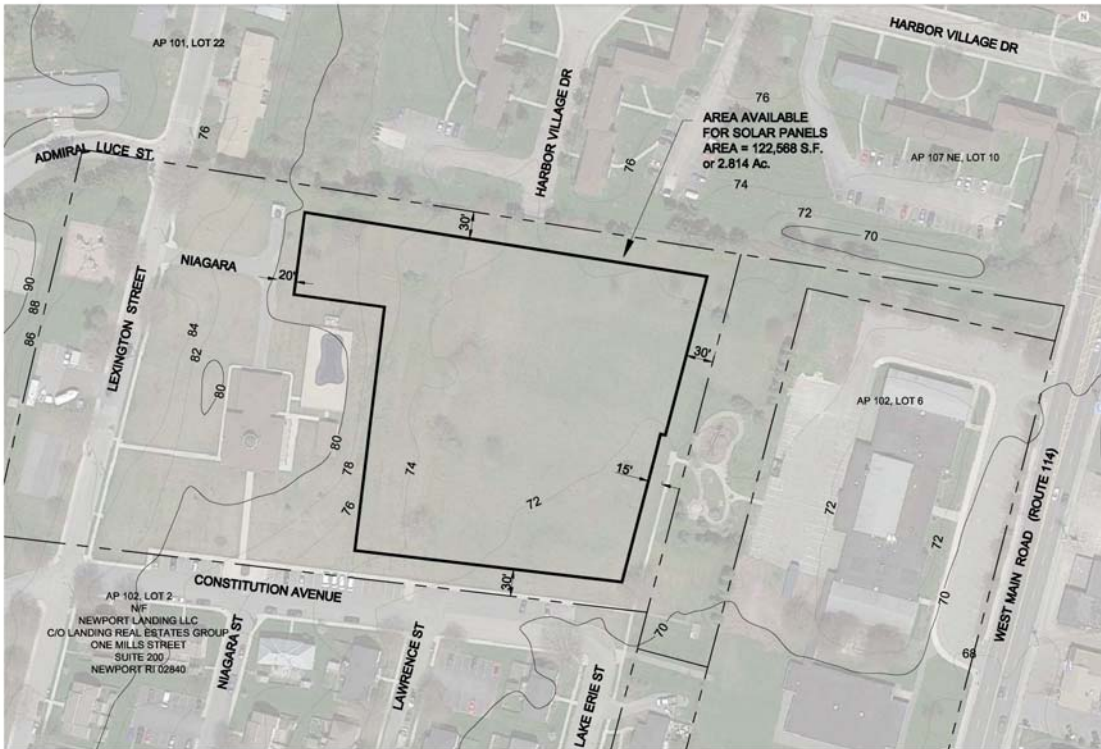
Title: Managing Director

Date: 6/28/16

Date: 6/21/2016

Exhibit 1
System and Premises Description

1. **Premises:** The approximately 22.3 acre parcel leased by Licensor, and located as shown on the attached map.
2. **System:** ([REDACTED]): The approximately [REDACTED] megawatt direct current (“MWdc”) solar panel electric generating system, including associated equipment, to be installed and operated by Licensee on the Premises.



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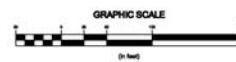
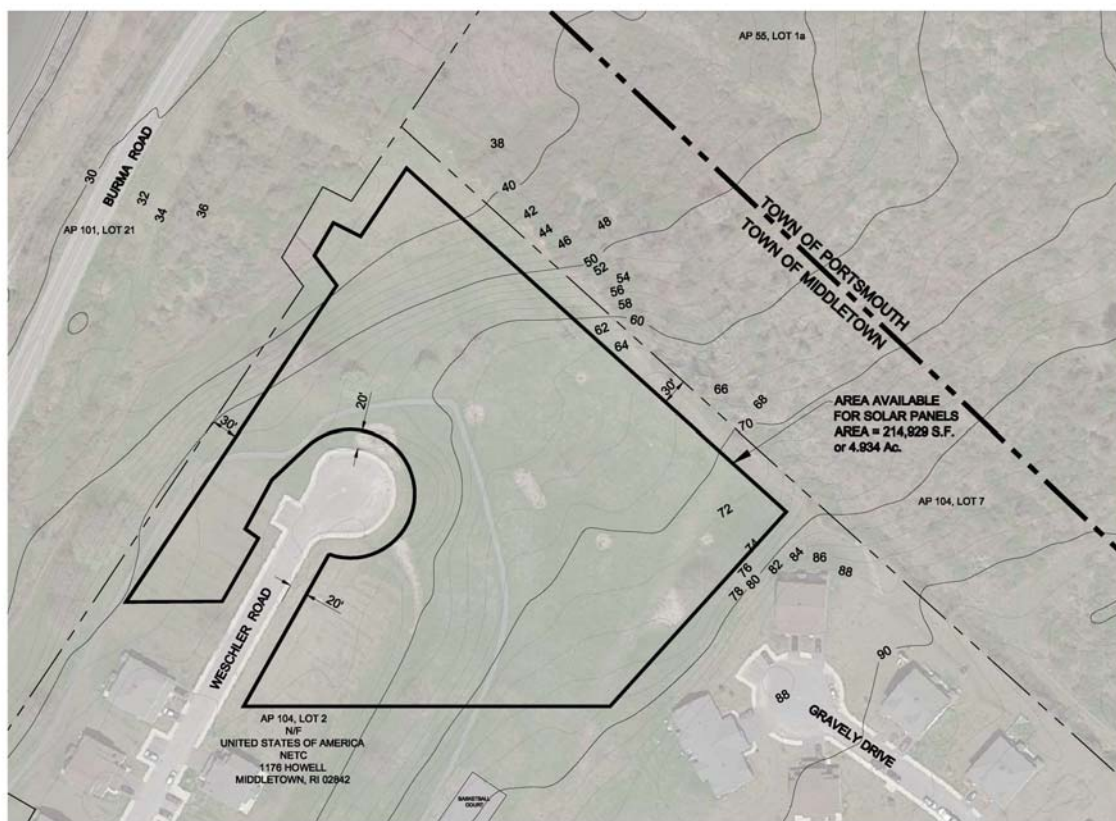
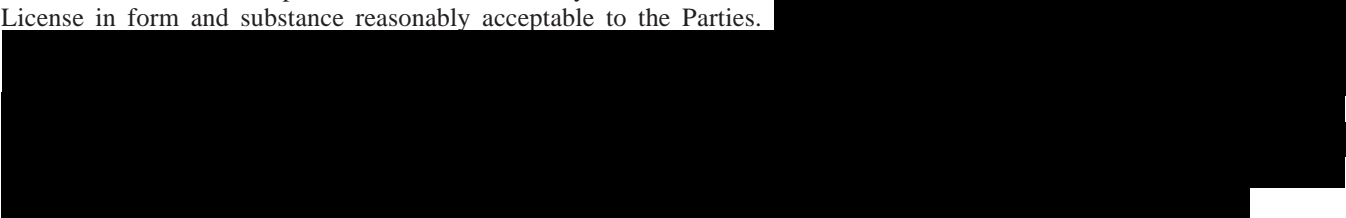


Exhibit 2

Terms and Conditions

- 1. Definitions and Interpretation:** Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words “herein,” “hereof” and “hereunder” refer to this License as a whole and not to any particular section or subsection of this License; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words “include,” “includes” and “including” mean include, includes and including “without limitation.” The captions or headings in this License are strictly for convenience and shall not be considered in interpreting this License.
- 2. License.** For the License Term (as defined below), Licensors grants to Licensee and to Licensee’s agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the “**License**”) for access to, on, over and across, but not under, the surface of the Premises for the purposes of (a) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (b) performing all of Licensee’s obligations under this License; and (c) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the System to the local electric utility’s electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Licensors shall provide sufficient space within the Premises 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 installation. Prior to commencement of any activities relating to the System, Licensee shall provide copies to Licensors of all relevant design, installation and other plans for approval by Licensors, which approval shall not be unreasonably withheld. Licensee shall notify Licensors prior to entering the Premises except in situations where there is imminent risk of damage to persons or property, in which case Licensee shall notify Licensors as soon as reasonably possible, and all rights of access granted to Licensee hereunder are subject to the security procedures from time to time established by the Government (as defined hereinafter). To the extent Licensee must cross other property controlled by Licensors to access the Premises, Licensee shall coordinate with Licensors and use only the routes approved by Licensors. Licensee and its agents, employees, contractors and subcontractors shall conduct work hereunder in a good and workmanlike manner and in a manner which shall minimize disruption and inconvenience to Licensors and to residents and other personnel of the military installation where the Premises is located. Licensors shall also use commercially reasonable efforts to cooperate with Licensee’s efforts to complete the construction, operation, maintenance, and grid connection of the System, provided, however, that Licensors shall have no obligation to incur any expenses/costs in relation to such requests from Licensee.

The term of this License shall begin on the date this License is signed by both parties and continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of the PPA (including any extensions thereof); provided, however, that in no event shall the term of this License continue beyond the date that is twenty (20) years following July 31, 2017, unless Licensors has agreed in writing to extend the term beyond such date, and provided further that the term shall automatically terminate upon such earlier date as the Ground Lease (as defined hereinafter) may terminate under the provisions thereof (the “**License Term**”). Licensors shall issue a formal Notice to Proceed (“**NTP**”) no later than 30 days after the full execution of this License. During the License Term, Licensors shall use commercially reasonable efforts to ensure that Licensee’s rights under the License and Licensee’s access to the Premises are preserved and protected and to not interfere with or permit any third parties to interfere with such rights or access. Licensors agrees that Licensee, upon request to Licensors and at the expense of the Licensee, may record a memorandum of license in the land records respecting the License in form and substance reasonably acceptable to the Parties.



As used herein, the “Ground Lease” shall refer to that certain Amended, Restated and Bifurcated Real Estate Ground Lease and Conveyance of Facilities, made as of July 26, 2007, as amended to date and as may be further amended from time to time, between Licensors and the United States of America, Department of the Navy (“Government”). Licensee hereby acknowledges that it has received and reviewed a copy of the Ground Lease, and that this License shall be subject to the terms and conditions of the Ground Lease. Licensee agrees to abide by such terms and conditions of the Ground Lease, including but not limited to conditions and restrictions as they relate to access to and use of the Premises and, subject to Paragraph 11(c) herein, compliance with the environmental requirements thereunder (to the extent applicable to Licensors). The License is subject to any and all easements and rights-of-way more particularly described in, and made part of, the Ground Lease (the “Existing Encumbrances”). Licensee acknowledges that the Government has the further right to create and grant additional easements and rights-of-way over, across and through the Premises in accordance with the terms of the

Ground Lease, including, without limitation, the right to modify and relocate any of the Existing Encumbrances. Licensor reserves the right to use the Premises for purposes which will not unreasonably interfere with Licensee's permitted use of the Premises.

Licensor, the Government and any agency of the United States, its officers, agents, employees, and contractors may enter upon the Premises at the times set forth below and for any purposes not inconsistent with Licensee's quiet use and enjoyment of the Premises under this License, including, but not limited to, the purpose of inspection. Except with respect to the Facilities Engineering and Acquisition Division (FEAD) or officers, agents, employees or contractors of the Government or any agency of the United States providing security, emergency, fire, police, or other similar services to the Licensed Premises or Licensor or the Government reasonably determines that entry without prior notice is required due to an imminent threat of injury to person or property, entry to the Premises will be made during regular business hours and with at least twenty-four (24) hours' prior written notice of Licensor's or Government's intention to do so. Licensee shall have no claim on account of any such entry on the Premises against Licensor or the Government, or any of their officers, agents, employees, or contractors to the extent such entry is consistent with the foregoing conditions, provided, Licensee shall not be responsible for the loss, damage or injury resulting from such entry on the Premises not otherwise due to its negligence acts or omissions.

- 3. Maintenance of Premises, Compliance with Law and Permitting.** The Premises are licensed for use by Licensee in an "as is" condition without any representation or warranty by Licensor concerning its condition, and without obligation on the part of Licensor to make any alterations, adaptations, repairs or additions. Licensee shall be responsible, at its sole cost and expense, for maintaining the System and the Premises in good and safe order and condition, including without limitation mowing or other landscape maintenance and snow removal. To the extent within Licensor's reasonable control and to the extent doing so does not materially adversely affect Licensor or its operations, Licensor will not take any action or make any omission that would cause the System to lose interconnection with the local utility grid. Licensor shall comply in all material respects with all statutes, regulations, orders, permits and other governmental requirements (collectively "**Laws**") applicable to Licensor under the Ground Lease. Licensee shall fully comply with all Laws applicable to the Premises or to Licensee as the licensee of the Premises, including but not limited any to any Laws relating to operation and maintenance of the System. Licensee shall obtain any permits necessary for the installation and operation of System as a result of the System's location on the Premises. Licensor shall also use commercially reasonable efforts to cooperate with Licensee's efforts to obtain any permits necessary for the construction, operation, maintenance, and grid connection of the System. Licensee shall be solely responsible for all costs, expenses and fees associated with such efforts to obtain necessary permits.
- 4. No Alteration of Premises.** Subject to any rights of the Government under the Ground Lease, Licensor (to the extent it has control over such actions) shall not make any alterations or repairs to the Premises which would materially and adversely affect the operation and maintenance of the System ("**Alterations**") without Licensee's prior written consent which shall not be unreasonably withheld. If Licensor wishes to make such Alterations, Licensor shall give prior written notice to Licensee, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Licensee the opportunity to advise Licensor in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Licensor shall be responsible for all damage to the System caused by the negligence or willful misconduct of Licensor or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such Alterations, (a) such work and any replacement of the System after completion of Licensor's Alterations shall be done by Licensee or its contractors at Licensor's cost, and (b) Licensee may reasonably estimate the amount of electricity that would have been generated during the period of time during which the System was not operational, and Licensor shall be responsible for such amount and any actual damages of the Licensee and its affiliates, including but not limited to lost sales of energy and associated environmental attributes (and penalty payments associated with the same) ("**Environmental Attributes**"), and any renewable energy credits, carbon credits, tax credits, allowances, rebates or incentives ("**Environmental Incentives**"). All of Licensor's Alterations will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.
- 5. Liens.** Licensor shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein. Licensor shall immediately notify Licensee in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Licensee, and shall indemnify Licensee against all costs and expenses (including reasonable attorneys' fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim. Except for rights granted to Financing Parties pursuant to Section 16(b) below, Licensee shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the Premises or any interest therein. Licensee shall immediately notify Licensor in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Licensor, and shall indemnify Licensor against all costs and expenses (including reasonable attorneys' fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim.

6. Security. Licensee shall be responsible, at its sole cost and expense, for the physical security of the Premises and the System. Without limiting the foregoing, Licensee shall, prior to completion of the initial installation of the System, install a safety fence around the System (to include commercially appropriate warning signage), the design and location of which will be subject to the prior written approval of Licensor, not to be unreasonably withheld.

7. Insolation. Licensor understands that unobstructed access to sunlight (“**Insolation**”) is essential to Licensee’s performance of its obligations and a material term of this License. Subject to the terms of the Ground Lease, Licensor shall not in any way cause and, where possible and within its reasonable control, shall not in any way permit any material interference with the System’s Insolation. If Licensor becomes aware of any activity or condition over which it has control and that could materially diminish the Insolation of the System, Licensor shall notify Licensee immediately and shall use commercially reasonable efforts to cooperate with Licensee in preserving the System’s existing Insolation levels. If such Insolation levels are not or cannot be maintained, Licensee may reasonably estimate the amount of electricity that would have been generated but for the reduced insolation levels, and elect to charge Licensor for, and Licensor shall pay, such amount including but not limited to lost sales of energy and associated Environmental Attributes (and penalty payments associated with the same), and any Environmental Incentives. Further, the Parties agree that reducing Insolation would irreparably injure Licensee, that such injury may not be adequately compensated by an award of money damages, and that Licensee is entitled to seek specific enforcement of this Section 7 against Licensor. Notwithstanding the foregoing, Licensee acknowledges and agrees that the Licensor is not deemed to have reasonable control over owners of lands adjacent to the Premises or over any activities of said landowners on such adjacent lands.

8. Taxes.

a. System Taxes.

- (1) As of the Effective Date, there are no taxes assessed against the System. If, however, after the Effective Date the System is subject to System Taxes, then Licensee shall pay any and all System Taxes prior to the date such System Taxes become delinquent. Within thirty (30) days after Licensee pays such System Taxes, but in no event later than ten (10) days after the date such System Taxes would have become delinquent if unpaid, Licensee shall provide evidence of such payment together with a copy of the tax bill for such System Taxes.
- (2) Subject to Section 5, to the extent Licensee, in its reasonable good faith judgment, believes the relevant taxing authority has erred in its assessment and/or calculation of the System Taxes, then following the written notice thereof to Licensor, Licensee may withhold payment of such System Taxes and contest such System Taxes by filing a System Tax Contest. Licensee shall pay the amount of the System Taxes determined to be due pursuant to such System Tax Contest within the timeframes established for such payment pursuant to any order or judgment rendered in such a System Tax Contest. The cost of such System Tax Contest shall be borne by Licensee.

b. Payment of Licensor’s Taxes and Expenses. Except as otherwise expressly provided in this License to the contrary, in no event shall Licensee be responsible for the payment of any of Licensor’s Expenses and/or Licensor’s Taxes and Insurance Expenses. Licensor shall timely pay, or cause the payment of, all of such Licensor’s Expenses and such Licensor’s Taxes and Insurance Expenses.

c. Definitions. For the purposes of this Section 8 and this License, the following terms shall have the following meanings:

“**Licensor’s Expenses**” means any and all costs, expenses and charges incurred by Licensor in connection with Licensor’s ownership, use, operation and management of the Premises including, but not limited to, Licensor’s Taxes and Insurance Expenses, common area maintenance charges, utilities charges and all other expenses related to the maintenance, improvement or repair of the Premises, or any parts thereof, in a manner consistent with the community standards for properties similar in size and caliber as the Premises.

“**Licensor’s Taxes and Insurance Expenses**” means any and all ad valorem taxes, personal property taxes and any other taxes that may be attributable to Licensor’s ownership of or leasehold interest in the Premises and/or any of Licensor’s personal property located therein or thereon, specifically excluding therefrom any and all System Taxes, together with any and all insurance required to be maintained by Licensor pursuant to this License.

“**System Taxes**” means any and all real and personal property taxes attributable solely to the System.

“**System Tax Contest**” means a challenge to proposed System Taxes filed in accordance with the requirements of any and all statutes, ordinances, rules, regulations and any and all other laws establishing the procedures for such a challenge.

9. Removal of System at Expiration.

Upon the expiration or earlier termination of this License, Licensee 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 sixty (60) 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. Licensee shall leave the Premises in neat and clean order. If Licensee fails to remove or commence substantial efforts to remove the System by such agreed upon date, Licensors 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 Licensee’s cost. Licensors shall provide sufficient space within the Premises 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.

10. 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**”, the other Party shall be the “**Non-Defaulting Party**” and each event of default shall be a “**Default Event**”:

- (1) failure of a Party to substantially perform any material obligation, other than those described in subsections (2) to (4), under this License 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 to include (an additional sixty (60) days) (for to a total of up to ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (i) the Defaulting Party initiates such cure within the thirty (30) day period and continues such cure to completion and (ii) there is no material adverse effect on the Non-Defaulting Party resulting from the failure to cure the Default Event;
- (2) failure of Licensee to pay the Secondary License Payment by August 30, 2016;
- (3) failure of Licensee to pay the Monthly Fee when due and failure to cure such nonpayment within fifteen (15) days following receipt of written notice from Licensors thereof;
- (4) if any representation or warranty or covenant 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;
- (5) Licensors loses its rights to occupy and enjoy the Premises due to a default under the Ground Lease;
- (6) a Party, or its guarantor (if any) 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).

b. Remedies. On the occurrence of a Default Event, the Non-Defaulting Party may pursue any remedy under this License, at law or in equity, including an action for damages and termination of this License, 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. If Licensors is the Non-Defaulting Party and terminates this License pursuant to this Section 10(b), then following such termination, Licensee shall, at its sole cost and expense, remove the equipment constituting the System. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

11. 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 License 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 License 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 License; and such Party is in compliance with all laws that relate to this License in all material respects.

b. Licensor's Representations and Warranties. Licensor represents and warrants to Licensee the following:

- (1) License. Licensor has a leasehold interest in the Premises. Licensor has the full right, power and authority to grant the License with the consent of the Government. Such grant of the License does not violate any law, ordinance, rule or other governmental restriction applicable to Licensor or the Premises and is not inconsistent with and will not result in a breach or default under any agreement by which Licensor is bound or that affects the System. The Licensor maintains a leasehold interest in the Premises, and has obtained all required consents from the Government as the owner of fee title of the Premises to grant this License in accordance with the Ground Lease, and to enter into and perform its obligations under this License. Licensor shall use commercially reasonable efforts to (i) not terminate the Ground Lease, (ii) not do or fail to do anything that could result in a termination of the Ground Lease prior to the expiration of the License Term, or (iii) not amend the Ground Lease in any manner that materially adversely affects Licensee's rights hereunder.
- (2) Other Agreements. Neither the execution and delivery of this License by Licensor nor the performance by Licensor of any of its obligations under this License conflicts with or will result in a breach or default under any agreement or obligation to which Licensor is a party or by which Licensor or the Premises is bound. To Licensor's knowledge, no consent by any party (other than the Government which has been obtained) is necessary for Licensor to grant this License.
- (3) Accuracy of Information. All information provided by Licensor to Licensee, as it pertains to the Premises, is accurate in all material respects.
- (4) Compliance with Law. Licensor is in compliance with and, for the License Term, Licensor shall fully comply in all material respects with all applicable Laws, including but not limited to any Environmental Laws relating to operation and maintenance of the Premises as required under the Ground Lease.
- (5) Environmental Permits. Licensor has obtained, possesses, is in compliance with and has made all necessary filings for issuance or renewal of, all material Environmental Permits applicable to the Premises and required under the Ground Lease.
- (6) Environmental Compliance. Licensor is, and during the past five (5) years has been, in material compliance with Environmental Laws applicable to the Premises and required under the Ground Lease.
- (7) No Environmental Proceedings. Except with respect to matters that have been settled or resolved with no ongoing liabilities or obligations, Licensor has not received any written notice of any proceeding regarding any actual or alleged violation of, or liability under Environmental Laws, or any investigatory, remedial or corrective obligations under Environmental Laws, in each case with respect to the Premises, nor is any such proceeding threatened to Licensor's knowledge.
- (8) No Environmental Releases. To Licensor's knowledge, the Licensor has not caused the release of Hazardous Substances at, on, about, under or from any of the Premises which would reasonably expected to give rise to material liability under Environmental Laws.

- (9) No Environmental Events. To Licensor's knowledge, there are no events: (i) that would prevent continued compliance in all material respects by the Licensor with Environmental Laws and the requirements of Environmental Permits applicable to it or the operation of the Premises in the same manner as presently operated and as contemplated by this License, or (ii) based upon the acts or omissions of the Licensor, that would result in the liability of Licensor under any applicable Environmental Laws.
- (10) Environmental Written Materials. Licensor has delivered to Licensee true, correct and complete copies of all Environmental Written Materials pertaining to the Premises in its possession, receipt, access or control.

c. Environmental Conditions. Licensee and Licensor represent, warrant, acknowledge, covenant and agrees that:

- (1) Licensee will be subject to, and required to comply with, the Environmental Protection provisions under the Ground Lease (attached hereto as Exhibit A) with respect to its use of the Premises under this License.
- (2) Licensee will be subject to, and required to comply with, the final "Environmental Assessment for Construction and Operation of a Solar Photovoltaic System at Naval Station Newport, Public-Private Venture Housing Sites, Newport County, Rhode Island" dated October, 2015, with respect to the use of the Premises under this License. Licensee specifically agrees to be bound by any restrictions and adhere to and implement any and all requirements and mitigation measures as set forth within that document, including those as stated in Chapter 4 (Environmental Consequences); Chapter 6, Table 6-1 (Summary Table of Mitigation Measures); Appendix B (Section 106 Consultation); and Appendix C (Coastal Consistency Correspondence).
- (3) Licensee will be subject to, and required to comply with, the "Finding of No Significant Impact (FONSI) for the Environmental Assessment for Construction and Operation of a Solar Photovoltaic System at Naval Station Newport Public-Private Venture Housing Sites, Newport County, Rhode Island" signed 29 October 2015 by Commander, Navy Region Mid-Atlantic, with respect to the use of the Premises under this License.
- (4) Should Licensee desire to pursue a mitigation action that differs from the approved approaches identified in the documents cited in paragraphs (1), (2) and (3) of this section "c. Environmental Conditions," Licensee must obtain approval for such alternate mitigation action from the Navy via a written request from the Licensor to the Navy. Such written request shall include all approvals and permits, as necessary, from regulatory agencies having jurisdiction over the planned development activities and shall also include environmental analysis sufficient to allow the Navy to determine the impact of the proposed change on its continuing obligations under the National Environmental Policy Act (NEPA). Licensee understands that any proposed alternate mitigation actions could trigger a requirement for supplementation of the Environmental Assessment, which could result in delays to the project.
- (5) The Parties acknowledge and agree that the Premises previously was operated by Licensor, and as between the Parties the Licensor is legally responsible for Pre-Existing Environmental Conditions and any Hazardous Substances hereafter introduced on the Premises by Licensor (except to the extent such Pre-Existing Environmental Conditions or Hazardous Substances are exacerbated by the acts or omissions of Licensee, its contractors, agents, employees, representatives or anyone else entering the Premises under Licensee's control or direction or otherwise authorized by Licensee or acting on Licensee's behalf (each a "Licensee Party"));
- (6) Licensee has no liability for claims of any nature that currently exist or may hereafter arise relating to the Pre-Existing Environmental Conditions or any Hazardous Substances hereafter introduced on the Premises by anyone other than a Licensee Party (except to the extent such Pre-Existing Environmental Conditions or Hazardous Substances are exacerbated by the acts or omissions of a Licensee Party);
- (7) Licensee bears no responsibility for any Pre-Existing Environmental Conditions on the Premises or any Hazardous Substances hereafter introduced on the Premises by anyone other than a Licensee Party, except to the extent such Pre-Existing Environmental Conditions or Hazardous Substances are exacerbated by the acts or omissions of a Licensee Party. Licensor, for and on

behalf of itself and all its successors in title and assigns, hereby waives, relinquishes, and releases Licensee, Licensee's Affiliates and its and their respective employees and agents from, and covenants not to sue Licensee, Licensee's Affiliates and its and their respective employees and agents for, any and all claims, demands, causes of action (including causes of action in tort), losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees) of any and every kind or character, known or unknown, which third parties might assert or allege against Licensee (or Licensee's Affiliates and its and their respective employees or agents) at any time by reason of or arising out of Pre-Existing Environmental Conditions or Hazardous Substances hereafter introduced on the Premises by Licensors, except to the extent such Pre-Existing Environmental Conditions or Hazardous Substances are exacerbated by the acts or omissions of a Licensee. Party

- (8) As between Licensors and Licensee, Licensors is and shall be solely responsible for all Pre-Existing Environmental Conditions on the Premises and all Hazardous Substances hereafter introduced on the Premises by Licensors and hereby covenants and agrees to defend and pay any and all claims arising out of, related to or resulting from such Pre-Existing Environmental Conditions or Hazardous Substances, including, without limitation, costs of remediation and claims by any Person for property damage, bodily injury or death, except to the extent such Pre-Existing Environmental Conditions or Hazardous Substances are exacerbated by, or claims arise from, the acts or omissions of a Licensee Party.
- (9) Environmental Written Materials. Licensors shall promptly furnish to Licensee, on an on-going basis throughout the Term and without necessity of request, all Environmental Written Materials.

d. Definitions. For the purposes of this Section 11 and this License, the following terms shall have the following meanings:

- (1) **"Environmental Laws"** means all federal, state and local laws, regulations, by-laws and ordinances, including policies and guidelines, orders, consent orders, settlement agreements and judgments of any Governmental Authority relating to pollution, protection of the environment or human health or safety, now or hereafter in effect.
- (2) **"Environmental Permits"** means all federal, state and local authorizations, certificates, permits, franchises, licenses, approvals required by, and any filings made to, any Governmental Authority pursuant to Environmental Laws regarding the Premises, Facility and the System.
- (3) **"Environmental Written Materials"** means all information, data, studies, analyses, tests, monitoring, notices, reports or other communications of any kind concerning the Premise's compliance with Environmental Laws and Environmental Permits as Licensors may possess, receive, file or submit or to which it otherwise has access or control from time to time, including, without limitation, any release or suspected or threatened release of Hazardous Substances at, on, about, under or from the Premises, compliance with applicable Environmental Laws and Licensors's liability under applicable Environmental Laws including, but not limited to any proceeding initiated or threatened by any person alleging liability under Environmental Laws, or seeking or imposing investigatory, remedial or corrective obligations under Environmental Laws.
- (4) **"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, or any arbitrator with authority to bind a party at law.
- (5) **"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.

- (6) **“Pre-Existing Environmental Conditions”** means any and all Hazardous Substances which are on or under the Premises as of the Effective Date.

12. Insurance.

- a. Insurance Coverage.** At all times during the Term, Licensee and Licensor shall maintain the following insurance:
- i. **Licensee’s Insurance.** [REDACTED]
 - ii. **Licensor’s Insurance.** [REDACTED]
- b. Policy Provisions.** All insurance policies provided hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance thirty (30) days (ten (10) days in the event of non-payment of premiums) written notice before the insurance is cancelled, or terminated, (ii) be written on an occurrence basis and (iii) be maintained with companies either rated no less than A-VII as to Policy Holder’s Rating in the current edition of A.M. Best’s Insurance Guide or otherwise reasonably acceptable to the other Party. Additionally, Licensee shall name Government and Licensor as additional insureds on its commercial general liability insurance.
- c. Certificates.** Upon the other Party’s request, each Party shall deliver to the other Party certificates of insurance evidencing the above required coverage. A Party’s receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this License.
- d. Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this License, each Party shall be responsible for the payment of its own deductibles.

- 13. Ownership of System.** Throughout the Term, Licensee shall be the legal and beneficial owner of the System and all of the System’s electric output and Environmental Attributes and Environmental Incentives, and the System shall remain the personal property of Licensee and shall not attach to or be deemed a part of, or fixture to, the Premises. Each of the Licensee and Licensor agree that the Licensee is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this License. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. The parties covenant that they shall file a memorandum at Licensee’s expense 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 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, Licensor shall, at Licensee’s request and expense, use commercially reasonable efforts to provide a disclaimer or release from such lienholder. If Licensor is the fee owner of the Premises, Licensor 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 Licensor is not the fee owner, Licensor will, at Licensee’s request and expense, use commercially reasonable efforts to obtain such consent from such owner. Upon request, and at the expense of the Licensee, Licensor agrees to use commercially reasonable efforts to deliver to Licensee a non-disturbance agreement in a form reasonably acceptable to Licensee from the owner of the Premises, any mortgagee with a lien on the Premises, and other persons holding a similar interest in the Premises. To the extent that Licensor does not own the Premises, Licensor shall provide to Licensee immediate written notice of receipt of notice of eviction from the Premises or termination of Licensor’s lease of the Premises.

14. Indemnification and Limitations of Liability.

- a. General.** Each Party (the **“Indemnifying Party”**) shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective affiliates of each thereof (collectively, the **“Indemnified Parties”**), 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 made by the Indemnifying Party set forth in Section 11 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 Indemnifying Party (or its contractors, agents or employees) in connection with this License; provided, however, that nothing herein shall require the Indemnifying Party 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; and provided further that the Licensor shall not be liable for any acts of vandalism against the System by others. The Licensee shall also indemnify and hold harmless the Government, its agents, employees, contractors, officers, successors and assigns, from and against all Liabilities resulting from any claims or actions relating to the breach by Licensee of any obligation, representation or warranty set forth herein, or from injury to or death of persons, or 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 Licensee (or its contractors, agents or employees) in connection with this License. This Section 14 however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 14(c) and, as to indemnification of the Government, Section 11(c) and Exhibit A.

- b. Notice and Participation in Third Party Claims.** The Indemnified Party shall give the Indemnifying Party 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. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party 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 the Indemnifying Party. The Indemnifying Party 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 the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 14 unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 14(b) for any Claim for which such notice is not provided if the failure to give notice prejudices the Indemnifying Party.
- c. Environmental Indemnification.** In addition to, not in lieu of, the indemnification described in Section 14(a), Licensee shall indemnify, defend and hold harmless all of Licensor’s Indemnified Parties 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 to the extent deposited, spilled or otherwise caused by Licensee or any of its contractors or agents. Licensor shall indemnify, defend and hold harmless all of Licensee’s Indemnified Parties 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 (including but not limited to any Hazardous Substance resulting from or relating to the prior use of the Premises, any Pre-Existing Environmental Conditions, and any settling or subsidence of the Premises), except to the extent deposited, spilled or otherwise caused by Licensee 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.
- d. Limitations on Liability.**
- i. No Consequential Damages. Except as specifically stated in this License, and except with respect to indemnification for Liabilities pursuant to this Section 14 and damages that result from the willful misconduct of a Party, neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, punitive, statutory, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such.
- ii. Actual Damages. Each Party’s aggregate liability to the other Party under this License arising out of or in connection with its respective performance or non-performance of this License shall not exceed the actual damages suffered or incurred by such Party, determined as of the year a claim is filed (irrespective of when a judgment or unappealable decision is rendered).

15. 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; abnormal weather condition or actions of the elements; 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); any Change in

Law that makes it unlawful, impossible or materially impracticable for Licensee to perform under this License; 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 License, if either Party is rendered wholly or partly unable to timely perform its obligations under this License 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. Notwithstanding anything to the contrary herein, this Section 15 shall not affect Licensee's obligation to pay the Monthly Fee.
- c.** If a Force Majeure event continues for a period of thirty (30) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, then the Parties shall, within thirty (30) days following receipt by the other Party of notice of such Force Majeure event, meet and attempt in good faith to negotiate amendments to this License. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Licensee shall have the right to terminate this License without either Party having further liability to the other Party except with respect to payment of amounts accrued prior to termination.
- d.** “**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 License (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 Licensee's obligations hereunder; provided, that a change in federal, state, county or any other tax law after the Effective Date of this License shall not be a Change in Law pursuant to this License.

16. Assignment and Financing.

- a.** **Assignment.** This License 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 previous sentence, Licensor may only assign this License to an owner of the Premises. Notwithstanding the foregoing, Licensee may, without the prior written consent of Licensor, assign, mortgage, pledge or otherwise directly or indirectly assign its interests in this License and the System to any Financing Party (as defined below), to any entity through which Licensee is obtaining financing from a Financing Party, to any party or entity to whom a Financing Party assigns this License, any affiliate of Licensee, to a successor entity in a merger, acquisition or corporate reorganization transaction, or to any person or entity succeeding to all or substantially all of the assets of Licensee (provided that Licensee shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Licensee's obligations hereunder by the assignee). This License shall be binding on and inure to the benefit of the successors and permitted assignees. Notwithstanding the foregoing, for the purpose of the System qualifying as an Eligible Net Metering System, as defined in Rhode Island General Laws Sec. 39-26.4, Licensee shall have the right to sublicense on the portion of the Premises where the System is located for the purpose of meeting this state law requirement only; and provided that prior to any such sublicense, Licensee provides documentation to Licensor of agreements by the sublicensee to comply with the terms and conditions of this License and Licensee obtains written consent from the Licensor regarding such sublicense, such consent not to be unreasonably withheld.
- b.** **Financing.** The Parties acknowledge that Licensee 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 License that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this License. The

Parties also agree that Licensee may assign this License to the Financing Parties as collateral, and in connection with any such assignment, Licensors agree to execute a consent to assignment in customary form and reasonably acceptable to Licensors and the Financing Parties, and covering such customary matters as agreeing to give the Financing Party notice of a default by Licensee hereunder and accept cure of such default by the Financing Party within the applicable cure period, to recognize the Financing Party's right to exercise its rights and remedies under the financing documents without Licensors' approval including acquiring by foreclosure or otherwise the rights of Licensee hereunder and the System or selling the same at a foreclosure sale, and, provided that the Financing Party cures Licensee's defaults, upon Licensors' termination of this License to enter into a new license with the Financing Party upon the then executory terms of this License.

17. Confidentiality and Publicity.

a. Confidentiality. If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the design, operation and maintenance of the System or of Licensors' business ("**Confidential Information**") to the other or, if in the course of performing under this License or negotiating this License a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this License. Notwithstanding the above, a Party may provide such Confidential Information to its, officers, directors, members, managers, employees, agents, contractors and consultants (collectively, "**Representatives**"), and affiliates, lenders, Financing Parties and potential assignees of this License (provided and on condition that such potential assignees be bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information), in each case whose access is reasonably necessary to the negotiation and performance of this License. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this License (but not its execution or existence) shall be considered Confidential Information for purposes of this Section 17, except as set forth in Section 17. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Section 17 by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Section 17. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 17, but shall be in addition to all other remedies available at law or in equity.

b. Permitted Disclosures. Notwithstanding any other provision in this License, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through the receiving Party, (ii) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement to the extent permitted by applicable law), (iii) is independently developed by the receiving Party or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall cooperate with the other Party in efforts to limit the disclosure to the maximum extent permitted by law.

18. 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 License, 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 License. Neither Party shall make any press release or public announcement of the specific terms of this License (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 License, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights. In addition, notwithstanding anything to the contrary herein, nothing shall prevent the Department of the Navy from complying with its internal communications policies and procedures.

19. General Provisions

- a. **Choice of Law.** This License shall be governed by and construed in accordance with the federal laws of the United States of America; provided, however, that to the extent that the federal law of the United States does not supply relevant law, this License shall be governed and construed by the law of the State of New York; provided, that to the extent that the law of the state in which the Premises is located (if other than New York) requires the application of the law of that state, the law of such state shall apply.
- b. **Arbitration and Attorneys' Fees.** Any dispute arising from or relating to this License shall be arbitrated in New York City, New York. The arbitration shall be administered by the American Arbitration Association in accordance with its rules and procedures governing commercial arbitrations, and judgment on any award may be entered in any court of competent jurisdiction. If the Parties agree, a mediator may be consulted prior to arbitration. The prevailing party in any dispute arising out of this License shall be entitled to reasonable attorneys' fees and costs.
- c. **Notices.** All notices under this License shall be in writing and shall be by personal delivery, electronic mail, overnight courier, 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 courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this License at the addresses set forth in this License or such other address as either party may specify in writing. Each party shall deem a document emailed or electronically sent in PDF form to it as an original document.
- d. **Survival.** Provisions of this License that should reasonably be considered to survive termination of this License shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 11 (Representations and Warranties), Section 12(a) (Insurance Coverage), Section 14 (Indemnification and Limitations of Liability), Section 17 (Confidentiality and Publicity), Section 19(a) (Choice of Law), Section 19(b) (Arbitration and Attorneys' Fees), Section 19(c) (Notices), Section 19(g) (Comparative Negligence), Section 19(i) (No Partnership) Section 19(j) (Full License, Modification, Invalidity, Counterparts, Captions) and Section 19(k) (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 License and which do not involve the assumptions of obligations other than those provided for in this License, to give full effect to this License and to carry out the intent of this License.
- 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 License 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 License will be deemed to be a waiver. No exercise of any right or remedy under this License by Licensor or Licensee 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 License shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this License 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. **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 License 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 License 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.

- i. No Partnership.** No provision of this License 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.
- j. Full License, Modification, Invalidity, Counterparts, Captions.** This License, 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 License may be modified only by a writing signed by both Parties. If any provision of this License is found unenforceable or invalid, such unenforceability or invalidity shall not render this License 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 License may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same License. The captions or headings in this License are strictly for convenience and shall not be considered in interpreting this License.
- k. No Third Party Beneficiaries.** Except as otherwise expressly provided herein, this License 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.
- l. Compliance with Laws, Rules and Regulations.** Licensee shall comply, and shall cause its agents, employees, contractors and subcontractors to comply, with all applicable laws, rules, regulations and legal requirements and shall comply with any design guide and construction rules, regulations or restrictions promulgated by the installation where the System is located and any safety policies of Licensor or its contractors. Without limiting the generality of the foregoing, Licensee shall comply, and to the extent applicable, require each of its suppliers and subcontractors to comply, with and provide requested certifications as to (i) the Buy American and Free Trade Agreements Act and applicable rules and regulations and (ii) applicable requirements of the Davis-Bacon Act (DBA), including, but not limited to, payment of prevailing wage rates in effect during construction of the System, and the submittal of certified payrolls along with the statement of compliance on a timely basis, and shall provide DBA awareness training to its employees and all subcontractors. Certified payrolls shall be submitted to Licensor. A copy of the current wage determination rate is attached hereto as Exhibit B, and (iii) Section 858 of Public Law 113-291. Licensee shall maintain a system for conducting appropriate review of certified payrolls for compliance with DBA requirements and shall use all reasonable efforts to ensure that laborers and mechanics employed or working upon the site of the work under this Agreement are properly classified and listed on the payroll records and that minimum wages and fringe benefits required by the DBA are being paid. Licensee shall maintain a system for documenting the use of apprentice/trainee wage classifications and shall maintain records which reflect monitoring of ratios of journeymen to apprentices/trainees. Licensee shall ensure required postings are placed at appropriate locations on the site of the work under this License, where applicable.

Licensee shall use all reasonable efforts in reconciling, as may be necessary, subcontractor payroll reports with its daily reports; conducting interviews, as appropriate, with Licensee's subcontractors' employees to verify actual wages being paid; and identifying discrepancies and possible violations. Licensee shall use all reasonable efforts to ensure that corrective actions, if required, are taken within 30 days. The Parties agree to notify the other party within three (3) business days of receipt of any formal inquiry into potential discrepancies and/or violations from the Department of Labor ("DOL") or any other applicable governmental entity. The Parties will provide monthly status updates of any such inquiries until resolution. The Parties shall cooperate fully with each other in providing any information and/or documentation which may be requested from DOL or any other applicable governmental agency.

Licensee acknowledges and shall inform its subcontractors that possible compliance interviews may be conducted by military personnel or designated DBA auditors or site employees of Licensor or Licensee. These random, unscheduled interviews will take place in accordance with applicable DBA requirements. Licensee shall ensure, to the extent possible, its subcontractors' employees will be cooperative and provide information requested or answers to questions asked at the time of such interviews. Licensee shall provide to Licensor, upon its request, evidence of compliance with the requirements set forth in this Section 19(l).

EXHIBIT A

ENVIRONMENTAL CONDITIONS

The following is an excerpt of the Environmental Conditions section of the Ground Lease:

12. ENVIRONMENTAL PROTECTION

12.1 Notwithstanding any other provision of this Lease, except as set forth in this Article 12, Article 16 or specifically included in the Development/Management Obligations, Lessee shall not have liability as between the Parties' for environmental remediation, impacts and damage arising under Environmental Laws, as defined in Section 12.2, or caused by or arising from the presence of Hazardous Materials, as defined in Section 12.2.4, on any portion of the Installation, including the Leased Premises, occurring on or prior to the Term Beginning Date, with respect to the 2004 Leased Premises, and occurring on or prior to the Amendment Effective Date, with respect to the 2007 Leased Premises, regardless of when discovered, except to the extent caused or exacerbated by the activities of Lessee. Except as set forth in this Article 12, Article 16 or specifically included in the Development/Management Obligations, Lessee shall have no obligation under this Lease to undertake the defense of a third party Claim, whether in existence now or brought in the future, alleging environmental impacts and damage arising out of the presence of any Hazardous Materials, on any portion of the Installation including the Leased Premises, occurring on or prior to the Term Beginning Date, except to the extent caused or exacerbated by the activities of Lessee. Except as set forth in this Article 12, Article 16 or specifically included in the Development/Management Obligations, the Government shall retain liability for damages and responsibility for remediation arising under Environmental Laws that are caused by or arise from the presence of Hazardous Material on any portion of the Leased Premises on or prior to the Term Beginning Date with respect to the 2004 Leased Premises, and occurring on or prior to the Amendment Effective Date, with respect to the 2007 Leased Premises. This Section 12.1 is not an agreement by the Government to indemnify the Lessee and shall only define the allocation of responsibility between Lessee and the Government, to the extent authorized by federal law. Nothing in this Section 12.1 shall require an obligation or expenditure of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

12.2 Lessee shall at all times comply with all Environmental Laws, as defined below, that are applicable to Lessee's activities on the Leased Premises. Lessee shall comply with the provisions of this Section 12 and shall include, in substantially the form set forth below, the following subsections in every sublease, excluding Housing Agreements and subleases with the Government. The term "**Environmental Laws**" means all statutes, limitations, restrictions, standards, prohibitions, obligations, schedules, plans and timetables having the force of law that are contained in or promulgated pursuant to any federal, state or local laws, regulations or ordinances whether existing now or hereinafter enacted, relating to pollution, the protection of the environment or drinking or domestic water supply, including but not limited to laws relating to safe drinking water, emissions, discharges, releases or threatened releases of Hazardous Materials into ambient air, surface water, ground water, drinking or domestic water supply, or lands or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, refinement, production, disposal, transport or handling of Hazardous Materials, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq. ("CERCLA"); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq. ("RCRA"), the Toxic Substances Control Act, 15 U.S.C. 2601, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq. ("FWPCA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, the Safe Drinking Water Act, 42 U.S.C. 300f, et seq., the Occupational Safety and Health Act, 29 U.S.C. 651, et seq., the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. 11001 et seq. ("EPCRA"), the Atomic Energy Act, 42 U.S.C. 2014, et seq., the Endangered Species Act, 16 U.S.C. 1531, et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136, et seq. ("FIFRA"), the Clean Air Act, 42 U.S.C. 7401, et seq., and their state analogs, state counterparts, and other state laws, regulations, and statutes relating to protection of human health and the environment. Specific requirements for various applicable Environmental Laws are attached to this Lease in Exhibits I-2, I-3, I-4, I-5, I-6, I-7, I-8, I-9, I-10, I-12, I-13, I-14, I-15, I-16, I-17, L, M, N, O, R, S, T, Z-1 and Z-2.

12.2.1 Lessee shall be responsible for obtaining at its cost and expense any environmental permits required for its operations under this Lease. No existing permits issued to the Government shall be used by Lessee without the express written consent of the Government. Lessee shall also provide notice to the Government of any environmental reports related to the Leased Premises which Lessee submits to any environmental regulatory agency. Copies of all permits and regulatory notices obtained by Lessee shall be provided to the Government, immediately upon Lessee's receipt of such permits and regulatory notices. Lessee shall not commence any activities until any required permits are formally obtained and will promptly notify the Government if it has actual knowledge of any activity that may constitute a permit violation.

12.2.2 Lessee shall maintain and make available to the Government, at the request of the Government, all records required to be maintained by Environmental Laws, relating to environmental compliance, clean-up, and/or remediation action by Lessee with respect to Lessee's activities on the Leased Premises. The Government reserves the right to inspect records in accordance with Section 15.1. Any Lessee violations of Environmental Law may be reported by the Government to appropriate regulatory agencies, to the extent required by Environmental Law.

12.2.3 Lessee shall comply with the relevant sections of the Federal Facility Agreement ("**FFA**") for each portion of the Leased Premises.

12.2.4 Except for those matters set forth in Section 12.1, Lessee shall be responsible for, and indemnify, defend, and hold harmless the Government, its agents, employees, contractors, subcontractors, officers, successors and assigns from any actions, operations, claims- for damages, notices of violation, notices of non-compliance, notice of deficiency or other costs, expenses, liabilities, fines, or penalties to the extent resulting from generation, manufacture, presence, release, discharge, emissions, spills, use, storage, handling or disposal of Hazardous Materials by Lessee, its officers, agents, employees, contractors, subcontractors or any sublessees or licensees, or the invitees of any of them from and after the Term Beginning Date with respect to the 2004 Leased Premises, and from and after the Amendment Effective Date, with respect to the 2007 Leased Premises, giving rise to civil or criminal liability or any responsibility under Environmental Laws. Lessee shall remediate any such generation, manufacture, presence, release, discharge, emissions, spills, use, storage, handling or disposal by Lessee to the extent required by Environmental Law which shall include taking all actions required by Environmental Law. Investigation of releases caused by Lessee are the responsibility of Lessee and shall be conducted pursuant to all Environmental Laws. Lessee shall provide the Government with the documentation of such investigations. The term "**Hazardous Material**" shall mean asbestos or any substance containing asbestos, polychlorinated biphenyls ("**PCB**"), PCB contaminated material, including, but not limited to, PCB contaminated electrical equipment as defined in 40 C.F.R. 761.3, lead, lead in the form of lead based paint materials or paint with lead ("**LBP**"), flammable explosives, radioactive materials, petroleum, petroleum fractions, petroleum constituents, petroleum distillates, chemicals known to cause cancer or reproductive toxicity, or that pose a risk to human health or safety or the environment or that are regulated under Environmental Laws, pollutants, effluents, residues, contaminants, emissions or related materials, natural gas liquids, and any items defined or regulated as "hazardous waste," "hazardous materials," "hazardous substances," "toxic waste," "toxic materials," or "toxic substances" or words of similar import, all under any applicable Environmental Law. The term "Hazardous Materials" shall not include items that are "household hazardous waste" including chemicals, lubricants, refrigerants, household supplies, materials for common residential purposes, and other substances kept in amounts typical for, and used as, standard janitorial supplies, office supplies, and the like in connection with the routine maintenance and operation of residential projects similar to the Improvements, to the extent kept, used, and maintained in a manner consistent with their intended uses. The term Hazardous Materials" also shall not include any substance or material that is identified herein in concentrations that do not require an action, including release reporting, monitoring or investigation under Environmental Laws. This provision shall survive the expiration or termination of this Lease, and Lessee's obligations hereunder shall apply whenever the Government incurs costs or liability for Lessee's or any sublessee's actions.

12.2.5 Lessee, during Hazardous Material disposal activities, shall not permit Lessee's Hazardous Materials to be commingled with the Hazardous Materials of the government without the prior written approval of the Government.

This Section 12.2.5 shall not apply to Hazardous Material disposal at a third party RCRA treatment, storage, and disposal facility.

12.2.6 The Government shall have the right, upon reasonable notice to Lessee, to access and inspect the Leased Premises for compliance with Environmental Laws whether or not the Government is responsible for enforcing those Environmental Laws. Such inspections are without prejudice to the right of duly constituted enforcement officials to make such inspections. The Government shall access the Leased Premises in accordance with Article 15.

Except as set forth herein, Lessee shall have no Claim on account of any inspection by any entities against the United States or any officer, agent, employee or contractor thereof.

12.2.7 Lessee shall be solely responsible for paying all costs and penalties and addressing and remediating any notice of violation or other regulatory order from a government agency related to Lessee's operations on the Leased Premises, to the extent Lessee is responsible for such violation or other regulatory order pursuant to this Lease. Lessee shall be liable for the payment of any fines and penalties related to environmental compliance to the extent such accrue from Lessee's actions or operations. Lessee shall immediately notify the Government and provide the Government with any notice of violation or other regulatory order from a government agency related to Lessee's operations on the Leased Premises.

12.2.8 Lessee shall immediately notify the Government if a suspected area of Hazardous Materials is encountered by or made known to Lessee within any portion of the Leased Premises, except to the extent set forth in Environmental Reports.

12.2.9 The Government shall not be responsible for any handling, removal or costs associated with the management, removal, and improvements of asbestos and asbestos containing material (collectively, "**ACM**") on the Leased Premises. Lessee shall be responsible for the costs of management of ACM in the Improvements, including residential housing, on the Leased Premises, in accordance with Lessee prepared and Government approved Asbestos Operations and Management Plan set forth in Exhibit R. Lessee shall comply with all Applicable Laws relating to occupational safety and health, the handling and storage of Hazardous Materials, and the proper generation, handling, accumulation, treatment, storage, disposal, and transportation of Hazardous Materials as they relate to the Leased Premises, including, but not limited to, residential housing, while abating or removing ACM. All asbestos workers and consultants shall be licensed to the extent required by Environmental Laws.

12.2.10 Lessee recognizes and acknowledges that LBP may be present on surfaces, dust and soils found within the Leased Premises. Lessee further acknowledges the required disclosure in accordance with the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §4852d ("**Title X**") of the presence of any known LBP and/or LBP hazards in housing constructed prior to 1978 on the Leased Premises and shall sign the Title X Lead-Based Paint Disclosure Statement. As used here, "housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (**6**) years of age resides or is expected to reside in such housing). Lessee shall provide each tenant under a Housing Agreement with a copy of the Lead-Based Paint Disclosure Form and a copy of the Pamphlet: Protect Your Family From Lead in Your Home: (EPA747-K-94-001) for those buildings and Housing Units which may contain LBP.

12.2.11 Lessee shall be responsible at its cost and expense for maintenance and management of LBP on the Leased Premises. Lessee shall be responsible for the costs of management of LBP on the Leased Premises, in accordance with Lessee prepared and Government approved Lead Based Paint Operations and Management Plan set forth in Exhibit S. The Lessee shall comply with all applicable provisions of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §4851 et seq., 24 CFR Part 35 et seq., 40 CFR §745.227, and all applicable state and local laws and regulations related to residential lead-based paint. Lessee acknowledges that it has been provided with a copy of the federally approved pamphlet on lead poisoning prevention.

12.2.11.1 The Government shall not be responsible for any management, handling, abatement, removal or disposal of LBP in the Improvements. The Lessee shall be responsible at its cost and expense for: (i) any abatement, removal, disposal, maintenance and management of LBP hazards located in and on the Improvements (including Housing

Units) and as set forth in the LBP Risk Assessments, as defined below, and as required by Environmental Laws; (ii) maintenance of LBP surfaces and management (to include management in place) of LBP hazards in the soils immediately adjacent to the Improvements; and (iii) any claims or liability to the extent resulting from Lessee's failure to manage, remove, abate, or dispose of all LBP hazards in the Improvements as required by this Lease. Lessee shall be responsible for any claims or liability for injury to persons caused by LBP to the extent resulting from (i) Lessee's failure to manage, remove, abate, or dispose of LBP in the Improvements as required by this Lease, or (ii) the disturbance of LBP during the Term of this Lease by the Lessee or any other person other than the Government or its agents, employees, contractors, or subcontractors. Lessee shall comply with Lessee's created and Government approved LBP plan attached as Exhibit S ("**Lead-Based Paint Management Plan**"). The Lead-Based Paint Management Plan identifies a proposed disposal site for LBP hazards. Any amendments to the Lead-Based Paint Management Plan shall identify the proposed disposal site for the LBP hazards. Such removal and disposal of the LBP hazards must be carried out in compliance with all applicable Environmental Laws.

12.2.1 1.2 For a Housing Unit constructed prior to 1978, Lessee shall undertake corrective actions to LBP hazards in any Housing Unit where Lessee becomes aware of a child, under the age of six years, living in the unit, that has an elevated blood lead level and the Housing Unit has been identified as the potential source. Lessee shall also maintain pre-1978 family housing and associated property in accordance with the Lead Based Paint Management Plan.

12.2.1 1.3 For a Housing Unit constructed prior to 1960, to the extent a Housing Unit is occupied on the applicable Term Beginning Date, the Lessee shall abate any identified LBP hazards in LBP risk assessments for the Leased Premises attached as Exhibits Z- 1 and Z-2 ("**LBP Risk Assessments**"), in accordance with 24 C.F.R. Part 35 and 40 C.F.R. §745.227 ("**LBP Regulations**") no later than the earlier of the (a) first change of occupancy or (b) renovation or replacement of the Housing Unit. To the extent such Housing Unit constructed prior to 1960 is vacant on the applicable Term Beginning Date, the Lessee shall, prior to occupancy of such Housing Unit, abate any identified LBP hazards identified by the LBP Risk Assessments in accordance with the LBP Regulations. To the extent the LBP Risk Assessments are more than 12 months old, prior to abatement of any LBP hazard identified in the LBP Risk Assessments, Lessee shall update or conduct a new LBP risk assessment for such identified LBP hazards, in accordance with the LBP Regulations and Environmental Laws.

12.2.11.4 For a Housing Unit constructed after 1959 and prior to 1978, Lessee shall manage any LBP hazards identified by the LBP Risk Assessments in accordance with the Lead Based Paint Management Plan.

12.2.1 1.5 For a Housing Unit constructed prior to 1978, Lessee shall manage all soil-lead hazards identified by the LBP Risk Assessments in accordance with the Lead Based Paint Management Plan.

12.2.12 Lessee shall comply with all Environmental Laws relating to occupational safety and health, the handling and storage of Hazardous Materials, and the proper generation, handling, accumulation, treatment, storage, disposal, and transportation of Hazardous Materials, as it relates to the Leased Premises, including, but not limited to, residential housing, while abating or removing ACM and LBP.

12.2.13 The Government shall not be responsible for any abatement, removal or containment of any Mold Condition in the Improvements irrespective of when such Mold Condition may have arisen; provided, however, that the Government shall retain liability for third party claims for injury to persons based upon or relating to Mold Conditions in the Improvements to the extent arising on or before the Term Beginning Date (including where such injury may not be known until after the Term Beginning Date) and to the extent permitted by the Federal Tort Claims Act. Lessee shall be responsible for (i) the costs of abatement, removal and containment of any Mold Condition in the Improvements (including the Housing Units) as required by Environmental Laws, the Lessee created and Government approved "**Mold Operations and Maintenance Plan**" as set forth in Exhibit L attached to this Lease, and this Section 12.2.13, and (ii) compliance with and implementation of the Mold Operations and Maintenance Plan, and (iii) any claims or liability related to any Mold Condition to the extent arising during the Term except to the extent the Government has retained liability in this Section 12.2.13. Lessee shall be responsible for any claims or liability for injury to persons to the extent resulting from (i) Lessee's failure to abate, remove or

contain a Mold Condition in the Improvements as required by Environmental Laws or the Mold Operations and Maintenance Plan, or (ii) the disturbance of a Mold Condition during the Term of this Lease by the Lessee or any other person other than the Government or its agents, employees, contractors or subcontractors.

12.2.14 Lessee shall comply with the hazardous waste permit requirements under RCRA or its state equivalent and any other Environmental Laws, as it relates to Lessee's activities on the Leased Premises. Lessee shall not treat, store or dispose of "hazardous waste" (as such term is defined and used under RCRA ("**RCRA HW**")) requiring a RCRA permit unless Lessee is in possession of a valid RCRA permit and RCRA generator identification number. Lessee shall obtain, at its own expense, one or more RCRA generator identification number(s) from the appropriate regulatory authority to the extent Lessee will generate and dispose of RCRA HW at a level that will require a RCRA generator identification number pursuant to Environmental Laws. Lessee shall not treat, store, or dispose of any RCRA HW under, pursuant to, or in reliance upon any RCRA permit or RCRA generator identification number issued to the Government, without the approval of the Government. Such approval will be granted if the Lessee has demonstrated diligent attempts to obtain such RCRA permit or RCRA identification number(s). The Lessee shall provide to the Government copies of such RCRA permit and RCRA generator identification number(s) issued to the Lessee and copies of any RCRA permit applications related to the Leased Premises as submitted to any environmental regulatory agency. Lessee shall be liable for any violations of these requirements by any residential tenants under the Housing Agreements, and shall be liable for the cost of proper disposal of any such **RCRA HW** generated by such tenants in the event of failure by the tenants to dispose properly of such wastes in accordance with RCRA.

12.2.14.1 Lessee shall provide at its own expense such RCRA HW storage facilities relating to Lessee's use or release of any RCRA HW complying with all applicable laws and regulations, as it may need for such storage. The Government RCRA HW storage facilities will not be available to Lessee without approval by the Government. Any storage of such materials must be in accordance with 10 U.S.C. § 2692 or other Applicable Laws and regulations.

12.2.14.2 The Government's accumulation points for RCRA HW will not be used by Lessee without written approval of the Government.

12.2.15 Lessee expressly acknowledges that it understands that some or all of the response actions that may need to be undertaken by the Government, if any, with respect to the Leased Premises may impact Lessee's quiet use and enjoyment of the Leased Premises and the Government's environmental cleanup activities shall take priority over Lessee's use of the Leased Premises in the event of a conflict. Lessee agrees that, except as otherwise provided in this Lease, the Government assumes no liability except to the extent mandated by Applicable Laws, to Lessee or its tenants should implementation of any Hazardous Material cleanup requirements, whether imposed by law, regulatory agencies, or the Government, interfere with Lessee's or its tenants' construction, use and occupancy of the Leased Premises. Lessee and any sublessees, assignees, licensees or invitees shall have no Claim, except as otherwise provided herein, against the United States or any officer, agent, employee or contractor thereof, on account of any such interference, whether due to entry, performance of remedial or removal investigations, or exercise of any right under this Lease or otherwise, provided, however, that the Government shall cooperate with Lessee to eliminate or reduce, to the extent possible, any such interference with Lessee's or its tenants' use of the Leased Premises. Any monitoring wells, pumping wells and treatment facilities on the Leased Premises by the Government shall be designed and installed by the Government to be as inconspicuous as practicable. Nothing herein shall obligate the Government to compensate Lessee or any third party for any lost profits, lost opportunities, lost wages or operating expenses or other consequential damages incurred as a result of Lessee's compliance with this Section 12.2.15.

12.2.16 Lessee agrees, after being notified in writing by Government, to comply with the provisions of any Hazardous Material remediation or response agreement entered into between the Government and any environmental regulatory authorities during the course of any response or remedial actions. Lessee shall not be required to undertake remediation or response activities under this Section 12.2.16, except to the extent set forth in the Development Management Obligations, or otherwise agreed to by the Government and Lessee.

12.2.17 Lessee shall not construct or make or permit its sublessees or assigns to construct or make any substantial alterations, additions or improvements to or installations upon or otherwise modify or alter the Leased Premises (other than the performance of the Construction Project) in any way which could reasonably be expected to materially and adversely affect human health or the environment without the prior written approval of the Government. Such approval may include a requirement to provide the Government with a performance and payment bond satisfactory to it in all respects and other requirements deemed necessary to protect the interests of the Government.

12.2.18 Lessee shall maintain and make available at the request of the Government all records, inspection logs, and manifests that track the generation, handling storage, treatment and disposal of Hazardous Materials by Lessee, as well as all other records required by Applicable Laws and requirements, relating to any environmental clean-up and remediation by Lessee with respect to Lessee's activities on the Leased Premises under this Lease after the Term Beginning Date. The Government reserves the right, upon reasonable notice to Lessee, to access and inspect any treatment, storage, and disposal facilities (to the extent any third party owning such facilities permits such access) located outside of the Leased Premises that Lessee uses for hazardous wastes regulated under RCRA that are generated by Lessee on the Leased Premises. The Government shall also have the right to inspect Lessee's records in accordance with Section 12.2.6. Violations will be reported by the Government to appropriate regulatory agencies, to the extent required by Applicable Law. Lessee shall be liable for the payment of any fines and penalties, which may accrue as a result of the actions of Lessee.

12.2.19 Lessee shall ensure that all reasonable measures are taken to prevent the release of Hazardous Materials during its operation and handling of Hazardous Materials within or adjacent to the Leased Premises. Lessee shall comply with Lessee's Hazardous Material Plan attached in Exhibit M. Such plan shall comply with all applicable Environmental Laws and shall be updated from time to time as may be required to comply with changes in site conditions or Applicable Laws and requirements and shall be approved by all agencies having regulatory jurisdiction over such plan to the extent required. The plan shall be independent of any Government plan. Lessee shall not rely on use of the Government's personnel or equipment in execution of its plan. Lessee shall take prompt steps to absorb and/or contain any Hazardous approved amendments to Lessee's Hazardous Material Plan to the Government within thirty (30) days of the execution of any amendments for the Government's approval. Should the Government provide any personnel or equipment for an emergency response to protect human health or the environment, whether for initial fire response and/or spill containment or otherwise on request of Lessee or because Lessee was not, in the reasonable opinion of the Government, conducting timely cleanup actions, Lessee agrees to reimburse the Government for its cost in accordance with all Applicable Laws. Lessee shall report such incidents to the Government and to regulatory agencies in accordance with Environmental Laws. Lessee shall comply with EPCRA and the Pollution Prevention Act, 42 U.S.C. §13101 - 13109, as applicable. Lessee shall ensure that all personnel responsible for emergency and spill response are trained in the spill response procedures applicable to the Installation to the extent such procedures are provided in writing to Lessee. The Government has the right to assume an active role in all phases of spill prevention control and spill cleanup, at its option in an emergency situation, as determined by the Government, or where Lessee fails to address such issue after notice from the Government; provided however, the Lessee shall have no liability for such actions of the Government, its agents and contractors.

12.2.20 Lessee shall comply with the plan for application of pesticides ("**Partners Plan for Pest Control**") as set forth in Exhibit N, attached hereto and made a part hereof. The Partners Plan for Pest Control shall be updated, from time to time as necessary, to be sufficient to meet all applicable federal, state, and local pesticide requirements. Compliance will also include applicable Department of Defense and Navy instructions regarding land and timber areas in which the Government has retained ownership. Lessee shall apply all pesticides within the Leased Premises only in compliance with the Partners Plan for Pest Control by a state-licensed applicator.

12.2.21 Lessee shall comply with all applicable requirements of the FWPCA, including the National Pollutant Discharge Elimination System ("**NPDES**") permit program and the dredge and fill program, as well as any applicable state or local requirements related to its use of the Leased Premises. To the extent required by Environmental Laws, Lessee shall obtain and comply with a NPDES permit for discharges to surface waters. If Lessee discharges wastewater to a publicly-owned treatment works ("**POTW**"), Lessee will be responsible for obtaining and

complying with any other requirements (e.g. sewer use ordinances or self implementing sewer authority regulations) that the POTW may require of its users. Lessee will be responsible for meeting all applicable wastewater and storm water discharge permit effluent limitations and control measures. Lessee agrees to inform and coordinate with the Government regarding all wastewater discharge activities. Lessee agrees to coordinate with the Government for all connections to the host Installation wastewater collection system or storm water drainage system. Storm water drainage systems shall include any pipes, catch basins, ditches and storm water BMPs such as ponds or other treatment devices. Lessee shall provide to the Government reports that identify the Construction Project's impact on the wastewater collection systems and storm water drainage system within a reasonable time period after the Amendment Effective Date. Lessee shall provide to the Government prior to the Government's approval of construction projects, excluding the Construction Project, reports that identify the construction project's impact on the wastewater collection systems and storm water drainage system.

12.2.2 1.1 Storm Water Discharges.

12.2.21.1.1 NPDES Municipal Separate Storm Sewer (MS4) Permits. To the extent set forth in Article 19, Lessee is responsible for operating and maintaining the storm water system on the Leased Premises. As the operator of the Government-owned municipal separate storm sewer system ("MS4"), Lessee shall either accept transfer of the Installation NPDES MS4 permit or apply for and comply with its own NPDES MS4 permit. In cases where the Installation holds the MS4 permit, Lessee shall comply with applicable provisions of the host installation NPDES Storm Water Management Program ("SWMP"), specifically control measures related to construction site runoff control, post construction storm water management, illicit discharge detection and elimination, and good housekeeping for municipal operations. If an Installation does not hold its own MS4 permit but the Installation is a co-permittee with the adjacent municipality, then Lessee shall also comply with applicable provisions of the adjacent MS4's NPDES storm water management program.

12.2.21.1.2 NPDES Storm Water Construction Permits. Lessee shall obtain and comply with (and require its contractors comply with) the NPDES storm water construction permit for construction projects on the Leased Premises in accordance with Environmental Law requirements. Additionally, if the host Installation holds a NPDES permit for the MS4 on the Leased Premises, Lessee shall coordinate with the Government to ensure that the proposed controls are consistent with those required by the construction site runoff control measures of the Installation SWMP. If the host installation does not hold its own MS4 permit but the Installation is a co-permittee with the adjacent municipality, then Lessee shall coordinate with and obtain approval from, if required by Environmental Law, the MS4 Permit holder as required regarding Lessee's SWPPP and proposed controls.

12.2.21.1.3 Erosion and Sediment Control. To the extent required by Environmental Laws, Lessee shall obtain approval for Lessee's erosion and sediment control plans from the cognizant state or local regulatory agency prior to such land disturbance activities. Lessee shall comply with such approved plans. Additionally, if the Installation holds a NPDES permit for its MS4, Lessee shall obtain approval that such erosion and sediment control plan is consistent with those required by the construction site runoff control measures of the Installation's SWMP. If the Installation does not hold a MS4 permit but the Installation is a co-permittee with an adjacent municipality that does hold an MS4 permit, then Lessee shall obtain approval from the MS4 permit holder of its erosion and sediment control plan.

12.2.2 1.1.4 Storm Water Management Permits. Lessee shall obtain and comply with any permits required by state and local regulatory agencies related to post-construction storm water management. Additionally, if the Installation holds an NPDES permit for the MS4 on the Leased Premises, Lessee shall obtain approval from the Government that such storm water management plan is consistent with those required by the post construction storm water management section of the Installation's SWMP. In states where storm water management permits must be held by the landowner, Lessee shall prepare the application package for Government approval and submittal to the state/local regulatory agency.

12.2.21.2 Dredge and Fill Permits. Lessee shall not discharge dredge or fill material into waters of the United States including wetlands and special aquatic sites without obtaining permits required by Environmental Laws including from the Army Corps of Engineers and/or appropriate state and local regulatory agencies. Copies of such permits obtained by the Lessee shall be provided to the Government.

12.2.22 Lessee shall notify the Government of Lessee's intent to possess, store, or use any licensed or licensable source or by-product materials, as those terms are defined under the Atomic Energy Act and its implementing regulations; of Lessee's intent to possess, use, or store radium; and of Lessee's intent to possess or use any equipment producing ionizing radiation and subject to specific licensing requirements or other individual regulations, at least thirty (30) days prior to the entry of such materials or equipment upon the Leased Premises. Upon notification, the Government may impose such requirements, including prohibition of possession, use, or storage, as deemed necessary to adequately protect human health and the environment. Thereafter, Lessee must notify the Government of the presence of all licensed or licensable source or by-product materials, of the presence of all radium, and the presence of all equipment producing ionizing radiation and subject to specific licensing requirements or other individual regulation; provided, however, that Lessee need not make either of the above notifications to the Government with respect to source and by-product material which is exempt from regulation under the Atomic Energy Act.

12.2.23 In addition to the Government's rights to enter the Leased Premises in accordance with Article 15, the Government, the EPA, the state and local environmental regulatory agencies and their officers, agents, employees, contractors, and subcontractors shall have the right to enter upon the Leased Premises for the following purposes:

12.2.23.1 To conduct investigations and surveys, including, where necessary, drilling, soil and water samplings, indoor and ambient air samplings, test pitting, testing soil borings and other activities related to potential Hazardous Material on the Leased Premises. Any such activities undertaken on lands utilized for residential purposes shall be conducted in a manner that is as inconspicuous as practicable;

12.2.23.2 To inspect field activities of the Government and its contractors and subcontractors in implementing any Hazardous Material remediation or investigation activities;

12.2.23.3 To conduct any test or survey required by the EPA or the state or local environmental regulatory agencies or environmental conditions at the Leased Premises or to verify any data submitted to the EPA by the Government relating to such conditions; and

12.2.23.4 To construct, operate, maintain or undertake any other response or remedial action, as required or necessary, including, but not limited to, sampling stations, monitoring wells, pumping wells and treatment facilities. Any sampling stations, monitoring wells, pumping wells and treatment facilities required on lands utilized for residential purposes shall be designed and installed to be as inconspicuous as practicable.

12.2.23.5 When Lessee has prior notice of an EPA or state regulatory visit or inspection, Lessee shall notify the Government as soon as practical. The right of entry set forth in this Section 12.2.23.5 shall be for any specific requirement pursuant to Environmental Laws, and for conducting any inspection, survey, monitoring, testing, or other action required by the Government, EPA or the state or local environmental regulatory agencies or environmental conditions at the Leased Premises or to verify any data submitted to the EPA by the Government relating to such conditions, or for such other purposes as the Government may determine. Such activities by the Government, EPA, and the state or local environmental regulatory agencies shall be conducted in a manner which will avoid, to the extent practical, any interference with Lessee's or its tenants' construction, use, and occupancy of the Leased Premises, and at the Government's expense, except to the extent set forth in this Lease. The Government shall repair any damage caused by the exercise of these rights.

12.2.24 Lessee, to the extent required in the Construction Obligations, shall undertake the closure or removal of underground storage tanks ("USTs") and above-ground storage tanks ("ASTs"). Lessee shall comply with UST and AST operational and closure requirements in applicable Environmental Laws.

12.2.25 Lessee shall comply with and implement the provisions of Lessee created and Government approved Spill Prevention, Control, and Countermeasures Plan ("SPCC Plan") as set forth in Exhibit 0, attached hereto and made part hereof. The SPCC Plan, and any subsequent modifications to the SPCC Plan, shall be submitted to the Government for approval prior to implementation. Lessee shall provide the Government with written reports of the status of compliance for AST operation on a biannual basis and will provide access to and/or furnish the Government with records regarding compliance with release detection requirements and releases as specified in any Environmental Laws. Lessee shall regularly inspect all ASTs owned by Lessee and associated piping for leaks and to

periodically test these items. If any evidence of contamination is observed, Lessee shall conduct any necessary investigation or site characterization and perform any necessary corrective actions in accordance with Environmental Laws. Lessee shall notify the Government within twenty-four (24) hours of any release from any portion of an AST system within the Leased Premises and must implement mitigation as soon as reasonably possible in keeping with requirements of Environmental Laws. All correspondence with regulatory agencies regarding ASTs including, but not limited to, reports, site characterization data, and corrective action plans must have prior approval of the Government. Hazardous Materials including oil and fuel generated during repairs and maintenance by Lessee must not be flushed to the floor or storm drains. Lessee shall ensure that all personnel responsible for spill response are trained in the spill response procedures applicable to the Installation to the extent such procedures are provided in writing to Lessee.

12.2.26 Lessee and any sublessee are prohibited from using any oil/water separators or tanks already present on the Leased Premises. If Lessee or any sublessee requires use of any oil/water separators or tanks, Lessee or sublessee shall install and be responsible for the proper use and maintenance of such equipment.

12.2.27 Lessee shall not ship to the Leased Premises, or acquire for use on the Leased Premises, soil that contains Hazardous Materials.

12.2.28 Subject to Section 12.4, Lessee shall not intentionally or knowingly remove or disturb or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the Leased Premises, Lessee shall immediately notify the Government and Lessee shall immediately stop work in the affected immediate vicinity of such items until the Government gives Lessee timely written clearance to proceed. The Government shall use its best effort to provide Lessee with written clearance to proceed, in compliance with Applicable Law. Lessee shall comply with the requirements of the Archaeological Resources Protection Act, 16 U.S.C. 470 et seq. The Government shall cooperate with Lessee to avoid material interference or delay with respect to Lessee's or any sublessee's development of the Leased Premises pursuant hereto.

12.2.29 Lessee shall not conduct any subsurface excavation, digging and drilling or other disturbance of the surface of the Leased Premises without the prior written approval of the Government, which shall not be unreasonably withheld or delayed. Subject to Section 12.4, Lessee may conduct subsurface excavation, digging, and drilling or other disturbance of the surface of the Leased Premises if Lessee reasonably determines that the condition necessitating such action constitutes an imminent threat of injury to person or property, and Lessee notifies the Government immediately after such action.

12.2.30 Notwithstanding any provision to the contrary in this Lease, Lessee shall take those actions set forth below:

12.2.30.1 RESERVED.

12.2.30.2 Naval Shipyard, Portsmouth Land and the Portsmouth Units Land

12.2.30.2.1 Lessee shall inform tenants of their responsibilities to promptly report water leaks, water damage, or moisture problems to the Lessee property manager as set forth in Exhibit I-2.

12.2.30.2.2 Lessee shall periodically test radon mitigation systems currently in place and disclose to future owners that such systems must be maintained as set forth in Exhibit I-2.

12.2.30.2.3 The Government shall have the right to access Naval Shipyard, Portsmouth Land to conduct ongoing investigations as set forth in Exhibit I-2.

12.2.30.3 Naval Station, Newport Land

12.2.30.3.1 The Government shall have the right to access Naval Station, Newport Land for the Government's ongoing remediation of an UST as set forth in Exhibit I-4.

12.2.30.3.2 Lessee shall test radon mitigation n systems currently in place every two (2) years as set forth in Exhibit I-4.

12.2.30.4 Naval Submarine Base, New London Land

2.2.30.4.1 Lessee shall test radon mitigation systems currently in place every two (2) years as set forth in Exhibit I-5.

12.2.30.4.2 The Government shall have the right to access Naval Submarine Base, New London Land to address certain UST issues as set forth in Exhibit I-5.

12.2.30.5 Naval Weapons Station, Earle Land and Earle Units Land.

12.2.30.5.1 The Government shall have the right to access Naval Weapons Station, Earle Land to monitor the groundwater as set forth in Exhibit I-8.

12.2.30.6 Mitchel Manor North, Long Island Land.

12.2.30.6.1 Notwithstanding anything herein to the contrary, Lessee covenants and agrees that LBP hazards in Housing Units on Mitchel Manor North, Long Island Land identified in Exhibit I-7 will be abated in accordance with the requirements of Exhibit I-7 before re-occupancy of such Housing Units. For all other environmental matters identified in Exhibit I-7, Lessee shall ensure the environmental requirements specified in Exhibit I-7 will be performed.

12.2.30.7 Green Acres, Naval Weapons Station, Earle Land

12.2.30.7.1 Notwithstanding anything herein to the contrary, Lessee covenants and agrees that LBP hazards in Housing Units on Green Acres, Naval Weapons Station, Earle Land identified in Exhibit I-12 will be abated in accordance with the requirements of Exhibit I-12 before re-occupancy of such Housing Units. For all other environmental matters identified in Exhibit I-12, Lessee shall ensure the environmental requirements specified in Exhibit I-12 will be performed.

12.2.30.8 Highway 34, Naval Weapons Station, Earle Land.

12.2.30.8.1 Notwithstanding anything herein to the contrary, Lessee covenants and agrees that LBP hazards in Housing Units on Highway 34, Naval Weapons Station, Earle Land identified in Exhibit I-12 will be abated in accordance with the requirements of Exhibit I-12 before re-occupancy of such Housing Units. For all other environmental matters identified in Exhibit I-12, Lessee shall ensure the environmental requirements specified in Exhibit I-12 will be performed.

12.2.30.9 Rainbow Heights/Melville A, Naval Station, Newport Land

12.2.30.9.1 Notwithstanding anything herein to the contrary, Lessee covenants and agrees that LBP hazards in Housing Units on Rainbow Heights/Melville A, Naval Station, Newport Land identified in Exhibit I-3 will be abated in accordance with the requirements of Exhibit I-3 before re-occupancy of such Housing Units. For all other environmental matters identified in Exhibit I-3, Lessee shall ensure the environmental requirements specified in Exhibit I-3 will be performed.

12.2.30.10 Remaining Anchorage, Naval Station, Newport Land.

12.2.30.10.1 Notwithstanding anything herein to the contrary, Lessee covenants and agrees that LBP hazards in Housing Units on the Remaining Anchorage, Naval Station, Newport Land identified in Exhibit I-3 will be abated in accordance with the requirements of Exhibit I-3 before re-occupancy of such Housing Units. For all other environmental matters identified in Exhibit I-3, Lessee shall ensure the environmental requirements specified in Exhibit I-3 will be performed.

12.2.30.11 Mitchel Field, Long Island Land.

12.2.30.11.1 Notwithstanding anything herein to the contrary, Lessee covenants and agrees that LBP hazards in Housing Units on Mitchel Field, Long Island Land identified in Exhibit I-10 will be abated in accordance with the requirements of Exhibit I-10 before re-occupancy of such Housing Units. For all other environmental matters identified in Exhibit I-10, Lessee shall ensure the environmental requirements specified in Exhibit I-10 will be performed.

12.2.30.12 Building 1004, Naval Submarine Base, New London. Notwithstanding anything herein to the contrary, Lessee covenants and agrees that all PCB and non-PCB lighting ballasts will be disposed of properly as Connecticut

regulated waste. Lessee covenants and agrees that all LBP hazards identified in Exhibit I-17 will be managed in full compliance with Connecticut Department of Environmental Protection regulations for LBP management in the construction industry. For all other environmental matters identified in Exhibit I-17, Lessee shall ensure the environmental requirements specified in Exhibit I-17 will be performed.

12.2.31 Lessee shall comply with the plan for minimizing exposure for arsenic in soils ("**Partners Plan for Minimizing Exposure for Arsenic in Soils**") as set forth in Exhibit T, attached hereto and made a part hereof. The Partners Plan for Minimizing Exposure for Arsenic in Soils shall be updated, from time to time as necessary, to be sufficient to meet all applicable federal, state, and local requirements.

12.2.32 If the Lessee harvests merchantable forest products located on the Leased Premises for sale or other consideration in support of development, Lessee shall notify the Government in advance of such activities. Merchantable forest products are not conveyed to the Lessee pursuant to this Lease. Lessee shall be required to pay to the Government the value of such merchantable forest products, when Lessee undertakes harvesting, disposal, sale, or use of forest products on the Leased Premises, as reasonably determined by the Government in accordance with the Government's policies and procedures at OPNAV 5090: OPNAVINST 5090.1B7 Ch. 22-8, Natural Resources Management and DoD 7000.14-R, Vol.11A, Ch. 16, Financial Management Regulation, Accounting for Production and Sale of Forest Products and 10 U.S.C. § 2665. Except for the work required to be performed as part of the Construction Project, the Lessee shall consult with a landscape architect and /or arborist prior to any action that would cause significant damage (but not including pruning and other tree care) to a mature tree(s) on the Leased Premises. If proposed actions will result in a significant loss of mature trees on the Leased Premises, the Lessee shall notify the Government prior to implementing such action.

12.3 Environmental Notices.

12.3.1 RESERVED.

12.3.2 The environmental notices for the Naval Shipyard, Portsmouth Land and the Portsmouth Units Land are as set forth in Exhibit I-2.

12.3.3 The environmental notices for the Naval Station, Newport Land are as set forth in Exhibit I-4.

12.3.4 The environmental notices for the Naval Submarine Base, New London Land are as set forth in Exhibit I-5.

12.3.5 The environmental notices for the Naval Support Unit, Saratoga Springs Land are as set forth in Exhibit I-6.

12.3.6 The environmental notices for the Mitchel Manor South, Long Island Land are as set forth in Exhibit I-13.

12.3.7 The environmental notices for the Mitchel Manor North, Long Island Land are as set forth in Exhibit I-7.

12.3.8 The environmental notices for the Naval Weapons Station, Earle Land and the Earle Units Land are as set forth in Exhibit I-8.

12.3.9 The environmental notices for the Green Acres, Naval Weapons Station, Earle Land and the Highway 34, Naval Weapons Station, Earle Land are as set forth in Exhibit I-12.

12.3.10 The environmental notices for the Naval Air Engineering Station, Lakehurst Land are as set forth in Exhibit I-9.

12.3.11 The environmental notices for the Rainbow HeightsA4elville A, Naval Station, Newport Land and the Remaining Anchorage, Naval Station, Newport Land are as set forth in Exhibits I-3.

12.3.12 The environmental notices for the Mitchel Field, Long Island Land are as set forth in Exhibit I-10.

12.3.13 The environmental notices for Building 1165, at the Coddington Cove CDC Land, at Naval Station Newport, are as set forth In Exhibit I-14.

12.3.14 The environmental notices for Building T-381, at Fort Adams CDC Land at Naval Station Newport, are as set forth in Exhibit I-15.

12.3.15 The environmental notices for Quarters AA, at Quarters AA Land at Naval Station Newport, are as set forth in Exhibit I-16.

12.3.16 The environmental notices for Building 1004 at Naval Submarine Base, New London, are as set forth in Exhibit I-17.

12.4 . Lessee shall comply with the historic, archeological and cultural provisions set forth in Exhibits P-1 through P-8 and P-10 through P-13 for the portions of the Leased Premises identified in such exhibits. In addition, Lessee shall

at all times comply with the following sub-paragraphs applicable to Lessee's activities on the Leased Premises. For purposes of this Section 12.4, the term "**Leased Premises**" shall mean the portion of the Leased Premises described in Exhibits P-1 through P-8 and P-10 through P-13.

12.4.1 In addition to the Government's rights to enter the Leased Premises in accordance with Article 15, the Government, the State Historic Preservation Office; and their officers, agents, employees, contractors, and subcontractors; shall, upon reasonable notice to Lessee, have the right to enter upon the Leased Premises for performance and/or verification of requirements, purposes and processes identified in the historic, archeological and cultural provisions set forth in Exhibits P-1 through P-8 and P-10 through P-13. In addition, Lessee shall respond in writing to all written inquiries from the State Historic Preservation Officer in a commercially reasonable timeframe. Access by the Government, the State Historic Preservation Office, the Advisory Counsel on Historic Preservation and their officers, agents, employees, contractors, and subcontractors shall be conducted in a manner that will avoid, to the extent practical, any interference with Lessee's or its tenants' use and occupancy of the Leased Premises.

12.4.2 Lessee shall not intentionally or knowingly remove or disturb or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the Leased Premises, Lessee shall immediately notify the Government and Lessee shall immediately stop work in the affected immediate vicinity of such items until the Government gives Lessee timely written clearance to proceed. The Government shall use its best effort to provide Lessee with written clearance to proceed, in compliance with Applicable Law. Lessee shall comply with the requirements of the Archaeological Resources Protection Act, 16 U.S.C. §§ 470aa et seq., the National Historic Preservation Act, 16 U.S.C. § 470 et seq., the implementing regulations to the National Historic Preservation Act, 36 CFR Part 800 (2004), and the Native American Graves Protection and Repatriation Act, 25 U.S.C. §§ 3001 et seq. The Government shall cooperate with Lessee to avoid material interference or delay with respect to Lessee's or any sublessee's development of the Leased Premises pursuant hereto.

12.4.3 Lessee shall include, in substantially the form set forth, the requirements of Section 12.4 (inclusive of the historic, archeological and cultural provisions contained in Exhibits P-1 through P-8 and P-10 through P-13) in any sublease, excluding tenant leases and subleases with the Government.

12.4.4 Except as provided in Exhibit P-8, Lessee shall not conduct any subsurface excavation, digging and drilling or other disturbance of the surface of the Leased Premises without the prior written approval of the Government, which shall not be unreasonably withheld or delayed. If Lessee undertakes any subsurface excavation, digging, drilling or other disturbance of the surface, Lessee shall immediately notify the Government should any foreign, potentially Hazardous Material, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity be encountered during this work.

12.5 Lessee shall not conduct any subsurface excavation, digging, drilling or other disturbance of the surface of the Naval Station, Newport Land without the prior written approval of the Government, which shall not be unreasonably withheld or delayed. In the event that the Naval Station, Newport Land is subject to a Memorandum of Understanding between Government and the Native American Tribes (**the "Memorandum of Understanding"**), Lessee shall comply with the applicable provisions of such Memorandum of Understanding. Lessee shall undertake the soil borings and or surveys on the Naval Station, Newport Land as set forth in the Development/Management Obligations or as modified by the Memorandum of Understanding. Lessee may conduct subsurface excavation, digging, and drilling or other disturbance of the surface of the Naval Station, Newport Land if Lessee reasonably determines that the condition necessitating such action constitutes an imminent threat of injury to person or property, and Lessee notifies the Government immediately after such action. Nothing in this Section 12.5 relieves, waives or diminishes any other requirements of Lessee under this Lease applicable to the Naval Station, Newport Land.

12.6 Lessee shall update from time to time all of Lessee's environmental related plans required by this Lease as required by changes to Environmental Laws or at the reasonable request of the Government, and the Lessee shall

obtain the written approval of the Government for such updated plans, which approval shall not be unreasonably withheld. If the Government does not approve or respond with comments within sixty (60) days after receipt by the Government of an amended plan, then such amended plan, to the extent such plan complies with Environmental Laws, shall be deemed approved by the Government.

First Amendment to Solar Power Site License

This First Amendment to Solar Power Site License (this "Amendment") is entered into as of the 21st day of October, 2017 by and between Energy Development Partners, LLC ("Licensee") and [REDACTED] ("Licensor") and amends that certain Solar Power Site License dated as of June 21, 2016 (the "License") by and between Licensee and Licensor.

In consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensor and Licensee hereby agree as follows:

1. Amendment. (a) The first sentence of the second paragraph of Section 2 of Exhibit 2 to the License is hereby replaced with the following:

"The term of this License shall begin on the date this License is signed by both parties and continue until the date that is one hundred and twenty (120) days following the date that is twenty-five (25) years following the Commercial Operations Date (as defined in the PPA), unless Licensor has agreed in writing to extend the term beyond such date, provided that, so long as Licensee is not then in default under this License (beyond any applicable notice and cure period), Licensee may extend the term of this License for up to two (2) periods additional of five (5) years each on the same terms set forth herein upon written notice to Licensor given at least one hundred twenty (120) days prior to the expiration of the then current term, and provided further that the term shall automatically terminate upon such earlier date as the Ground Lease (as defined hereinafter) may terminate under the provisions thereof (the "**License Term**"). Licensee shall give Licensor written notice of the Commercial Operations Date, promptly after the occurrence thereof."


- (b) The following is hereby added at the end of the last sentence of the second paragraph of Section 2 of Exhibit 2 to the License:

[REDACTED]

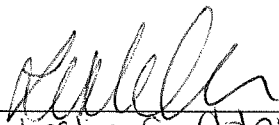
2. Effect on Agreement. Except as expressly amended by this Amendment, all terms of the License remain unmodified and in full force and effect.
3. Counterparts; Facsimile. This Amendment may be executed in counterparts, all of which, when taken together, shall constitute one and the same instrument. Facsimile signatures shall have the same force and effect as original signatures.


[signatures follow]

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Solar Power Site License as of the date first above written.


By: BBC Military Housing – Navy
Northeast, LLC, its managing member
By: Balfour Beatty Military Housing
Investments, LLC, its manager

**ENERGY DEVELOPMENT
PARTNERS, LLC**

By: 
Name: Leslie S. Cohn
Title: Executive Vice President


By: _____
Name: Frank A. Epps
Title: Managing Director

Second Amendment to Solar Power Site License

This Second Amendment to Solar Power Site License (this "Amendment") is entered into as of the 28 day of Nov., 2018 by and between Energy Development Partners, LLC ("Licensee") and [REDACTED] ("Licensor") and amends that certain Solar Power Site License dated as of June 21, 2016, as amended by that certain First Amendment to Solar Power Site License dated as of October 21, 2017 (as amended, the "License") by and between Licensee and Licensor.

In consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensor and Licensee hereby agree as follows:

1. Amendment.

- a. The second paragraph of the License is hereby replaced with the following:

"This License sets forth the terms and conditions on which Licensor is granting a license to Licensee for the installation and operation of solar panel systems described in Exhibit 1 (the "System") on, above and under the surface of the Licensor's premises described in Exhibit 1 (the "Premises") for the purpose of generating and selling electricity and associated attributes and incentives under power purchase agreements to be entered into between Licensee and third parties (each, a "PPA"). Notwithstanding the foregoing or anything in this License to the contrary, the rights conveyed to Licensee by Licensor under this License are granted only to the extent of Licensor's rights to the Premises under the Ground Lease (as hereinafter defined)."

- b. The first sentence of the first paragraph of Section 2 of Exhibit 2 to the License is hereby amended by deleting the first sentence up to clause (a) and replacing it with following:

"For the License Term (as defined below), Licensor grants to Licensee and to Licensee's agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the "License") for access to, on, over, across, and under the surface of the Premises for the purposes of..."

- c. The first sentence of the first paragraph of Section 2 of Exhibit 2 to the License is further amended by adding the following clause (d):

"(d) removal of vegetation, grading, creation of drainage basins, trenching, driving pile, installation of concrete pads, installation of riser poles, installation of fencing posts, installation of wire and conduit, and any other ground disturbance as may be necessary for the express purpose of installing the electric generating system, including associated equipment."

- d. The first sentence of the second paragraph of Section 2 of Exhibit 2 to the License is hereby replaced with the following:

“The term of this License shall begin on the date this License is signed by both parties and continue until the date that is one hundred and twenty (120) days following the date that is twenty-five (25) years following the last Commercial Operations Date (as defined in the applicable PPA) to occur under a PPA, unless Licensor has agreed in writing to extend the term beyond such date, provided that, so long as Licensee is not then in default under this License (beyond any applicable notice and cure period), Licensee may extend the term of this License without Licensor consent for up to two (2) additional periods of five (5) years each on the same terms set forth herein upon written notice to Licensor given at least one hundred twenty (120) days prior to the expiration of the then current term, and provided further that the term shall automatically terminate upon such earlier date as the Ground Lease (as defined hereinafter) may terminate under the provisions thereof (the “**License Term**”). Licensee shall give Licensor written notice of the last Commercial Operations Date to occur under a PPA, promptly after the occurrence thereof.”

2. Effect on Agreement. Except as expressly amended by this Amendment, all terms of the License remain unmodified and in full force and effect.
3. Counterparts; Facsimile. This Amendment may be executed in counterparts, all of which, when taken together, shall constitute one and the same instrument. Facsimile signatures shall have the same effect and force as original signatures.

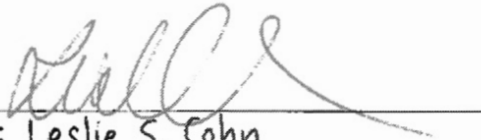
[signatures follow]


IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Solar Power Site License as of the date first above written.

[REDACTED]

**ENERGY DEVELOPMENT
PARTNERS, LLC**

By: BBC Military Housing – Navy
Northeast, LLC, its managing member
By: Balfour Beatty Military Housing
Investments, LLC, its manager

By: 
Name: Leslie S. Cohn
Title: Executive Vice President

By: 
Name: FRANK A. EPPS
Title: CEO

**EDP'S EXHIBIT
1-6 B**

PUC Docket No.: 4917

SOLAR POWER SITE SUBLICENSE

THIS SOLAR POWER SITE SUBLICENSE (this “Sublicense”) made is this _____ day of _____ 2018 (the “**Effective Date**”) by and between [ENTITY NAME], a _____ (“**Sublicensor**”), and [_____] a _____ (“**Sublicensee**”) (Sublicensor and Sublicensee are each a “**Party**” and collectively the “**Parties**”).

WITNESSETH:

WHEREAS, Sublicensor, as assignee of Energy Development Partners, LLC is the Licensee under a Solar Power Site License agreement by and between [REDACTED] and Sublicensor dated as of June 21, 2016 (as amended pursuant to the First Amendment to Solar Power Site License dated as of October 31, 2017 and November 28, 2018 Second Amendment to Solar Power Site License, the “**License**”), a copy of which is attached hereto as Exhibit A, for certain premises known as _____, [Portsmouth][Middletown], Rhode Island (the “**Premises**”), as more particularly described in Exhibit 1 of the License;

WHEREAS, the Sublicensor has licensed the Premises for the sole purpose of the construction, operation, and maintenance of a solar facility (the “**Solar Generation Facility**”);

WHEREAS, the Parties hereto are party to a Net Metering Credit Sale Agreement dated as of [___] (the “_____”), which the Parties intend the Solar Generation Facility to qualify as an “eligible net-metering system” pursuant to Rhode Island General Laws (“**RIGL**”) Section 39-26.4-2;

WHEREAS, R.I. Gen. Laws § 39-26.4-2(14)(i) requires the site of the Solar Generation Facility to be “owned or controlled” by Sublicensee, a public entity, educational institution, hospital, or one of the municipalities, as applicable, in order to be an eligible net-metering system;

WHEREAS, the parties are entering into this sublicense to grant control of the Premises to Sublicensee for the purpose of satisfying the statutory requirements of a net-metering financing arrangement;

NOW, THEREFORE, in consideration of the good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Sublicensor and Sublicensee agree as follows:

1. Sublicensor hereby sublicenses to Sublicensee the Premises for the uses permitted under the License. Sublicensee shall not impair in any way the construction, operation, and maintenance of the Sublicensor’s Solar Generation Facility.

2. Nothing in this Sublicense shall be deemed to be a dedication of any area for public use.

3. The term of this Sublicense commences of the Effective Date and terminates on the date the Net Metering Credit Sale Agreement terminates.

4. This sublicense is made for consideration already received and there shall be no additional rental charges to Sublicensee during the term of this Sublicense.

5. The Sublicensee shall comply with the use and operational restrictions under the License and all of the obligations set forth in this Sublicense.

6. Sublicensee shall not assign, sublicense or part with possession of any of the Premises granted under this Sublicense without the written consent of Sublicensor.

7. The Sublicensor's improvements to the Premises shall at all times remain the property of the Sublicensor or its successors and assigns and the Sublicensee shall have no right, title or interest therein.

8. Sublicensee acknowledges that Sublicensor may grant a lien and security interest in the Premises related to its permitted development. Sublicensee hereby acknowledges that this Sublicense will be subject to and subordinate to any present or future mortgage of Sublicensor's interests in the Premises. Such subordination is automatic and is effective without any further action of Sublicensee.

9. All notices shall be in writing and delivered in person or by a national overnight delivery service (and shall be effective when received, when refused, or when the same cannot be delivered) to the appropriate party at the address set forth below (or at such other address designated in writing pursuant to the terms hereof):

To Sublicensor:	
With a copy to:	
To Sublicensee:	
With a copy to:	

10. This Sublicense shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. This Sublicense shall be governed by and construed in accordance with the laws of the State of Rhode Island.

11. In the event that any of the provisions of this Sublicense are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions shall not be affected thereby.

12. This Sublicense, including the exhibits attached to this agreement and references contained in this agreement, constitutes the entire agreement and understanding of the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements, proposals,

offers, counteroffers, agreements and understandings of the Parties regarding said subject matter, whether written or oral, all of which are hereby merged into and superseded by this Sublicense.

13. This Sublicense may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one agreement. Signatures provided by electronic means shall be deemed binding on the Parties as of the date such executed document is transmitted to and received by all of the other party(ies).

14. The Parties shall execute a Notice of Solar Power Site Sublicense in the form of Exhibit B attached hereto and made a part hereof, and either Party may record such Memorandum of Sublicense in the office of the appropriate Land Evidence Records. This Sublicense shall not be recorded.

IN WITNESS WHEREOF, the Parties have executed this Sublicense on the date first set forth above.

By: _____
Name:
Title:

By: _____
Name:
Title:

Exhibit A

(Solar Power Site License)

EXEMPLAR

Exhibit B

(Notice of Solar Power Site Sublicense)

EXEMPLAR

**EDP'S EXHIBIT
1-9**

PUC Docket No.: 4917

Return to:
Energy Development Partners LLC
c/o Robinson & Cole LLP
One Financial Plaza, Suite 1430
Providence, RI 02903

NOTICE OF SUBLICENSE

THIS NOTICE OF SUBLICENSE is given as evidence that as of the ____ day of _____, 2019, (**The Licensee**), a Rhode Island limited liability company (**“Licensee”**), has entered into a Solar Power Site Sublicense with **ENERGY DEVELOPMENT PARTNERS, LLC**, a Rhode Island limited liability company (the **“Licensor”**), as follows:

1. **Parties:**

Licensor:	ENERGY DEVELOPMENT PARTNERS, LLC
Address:	260 West Exchange Street, Suite 102A Providence, RI 02903
Licensee:	(The Licensee)
Address:	ABC Road, Suite 10 Providence, Rhode Island 11111
2. **Sublicense:** That certain Solar Power Site Sublicense dated January 1, 2019, (the “Sublicense”).
3. **Term:** The term of the Sublicense shall commence on January 1, 2019 and terminate on the date the Net Metering Credit Sale Agreement terminates, subject to the applicable terms and conditions set forth in the Sublicense.
4. **Premises:** Portions of the following three parcels as shown on the plans attached hereto as **Exhibit A:**

1.00 acre parcel located in --, Rhode Island, known as Town Assessor’s Plat 1 Lot 1 Parcel A;
1.00 acre parcel located in --, Rhode Island, known as Town Assessor’s Plat 1 Lot 1 Parcel B; and
1.00 acre parcel located in --, Rhode Island, known as Town Assessor’s Plat 1 Lot 1 Parcel C.

For avoidance of doubt, the rights granted to and the obligation imposed by the Sublicense with respect to the Premises shall not include any obligations with respect to the subsurface of the Premises.

5. Rights Granted Pursuant to the Sublicense: An irrevocable non-exclusive sublicense for access to, on, over and across, but not under, the surface of the Premises for the purposes of (a) installing, constructing, operating, owning, maintaining, accessing, removing and replacing a solar panel electric generating system, including associated equipment (the "System") for the purpose of generating and selling electricity and associated attributes and incentives under a power purchase agreement to be entered into between Licensee and a third party (the "PPA"); (b) performing all of Licensee's obligations under this Sublicense; and (c) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the System to the local electric utility's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System.
6. Renewal or Extension Rights: NONE
7. Option to Purchase: NONE
8. Original License: The License is on file at the office of the Licensor.
9. Counterparts: This Notice of Sublicense may be executed in several counterparts, each of which shall be deemed an original, but as of which together shall constitute one and the same instrument.
10. Purpose of Notice: This Notice of Sublicense is intended solely to place of record the existence of the Sublicense and certain of the terms thereof. In the event of any inconsistency between this Notice of Sublicense and the Sublicense, the terms of the Sublicense shall control.

THE NEXT PAGE IS THE SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have hereunto set or caused to be set their hands and seals as of the date first above written and to a duplicate instrument of the same tenor and date.

Licensor:

**ENERGY DEVELOPMENT PARTNERS,
LLC**

By: _____
Name: _____
Title: _____

RHODE ISLAND AND PROVIDENCE PLANTATION
COUNTY OF

In _____ on the ____ day of January, 2019, before me personally appeared _____, the _____ of **ENERGY DEVELOPMENT PARTNERS, LLC**, a Rhode Island limited liability company to me known and known by me to be the person executing the foregoing instrument and he/she acknowledged the foregoing by him/her executed to be his/her free act and deed in his/her capacity and the free act and deed of **ENERGY DEVELOPMENT PARTNERS, LLC**.

Name: _____
Notary Public

Licensee:

THE LICENSEE

By:_____

Name: John Smith

Title: Manager

RHODE ISLAND AND PROVIDENCE PLANTATION
COUNTY OF

In _____ on the ____ day of October, 2017, before me personally appeared John Smith, the Manager of LICENSEE, a Rhode Island limited liability company to me known and known by me to be the person executing the foregoing instrument and he acknowledged the foregoing by him executed to be his free act and deed in his capacity and the free act and deed of LICENSEE.

Name:_____

Notary Public

Exhibit A

[Plans]

EXEMPLAR