ENERGY SERVICES AGREEMENT

by and between

WAPPINGERS CENTRAL SCHOOL DISTRICT

and

AMERESCO, INC.

Dated as of June 19, **2018**

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ENERGY SERVICES AGREEMENT

THIS ENERGY SERVICES AGREEMENT (this "***Agreement***") is entered into as of June 19, 2018, by and between Wappingers Central School District, having its principal place of business located at 167 Myers Corners Road, Suite 200, Wappingers Falls, New York 12590 ("***Customer***") and Ameresco, Inc., having its principal place of business at 111 Speen Street, Suite 410, Framingham, Massachusetts 01701 ("***Ameresco***"). The Customer and Ameresco may be collectively referred to as the "***Parties***" and individually as a "***Party***."

WHEREAS, Customer wishes Ameresco to perform a project ("***Project***") consisting of certain energy conservation services and installations as set forth in Attachment B (as amended and/or otherwise modified from time to time as provided herein, the "***Scope of Services***") at Customer's buildings described in Attachment A (the "***Property***"), and Ameresco wishes to perform such services;

WHEREAS, Customer owns the Property; and

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the Parties hereby agree as follows:

Section 1. Scope of Services.

(a) Work:

(i) **Preconstruction Services**: Ameresco has performed a Comprehensive Energy Audit ("***CEA***") of the Property, dated as of November 8, 2017, as set forth in Attachment B. Immediately following the execution and delivery of this Agreement, Ameresco will consult with Customer and, with Customer's authorization, will assist in coordinating the design and engineering services to be performed by a qualified professional engineering firm. The work to be performed by such professional engineering firm will include design and engineering services in relation to the required submissions to the New York State Education Department ("***NYSED***") in order to seek approval for the permissible amount of New York State Building Aid available for the Project ("***State Building Aid***"). The cost for such engineering services is included in the Contract Cost (as defined in Attachment F). Ameresco will also assist the Customer to obtain financial assistance from programs such as utility rebate or other incentive programs should they exist. In addition, Ameresco will compile product specification sheets for all specified equipment based on the ECM design prepared by Engineered Solutions. Customer shall not unreasonably withhold or condition its approval of any such documents and shall, to the extent possible, furnish its written approval or disapproval of each submission within twenty (20) business days following Customer's receipt of a complete packet. If Customer does not approve of any submission within twenty (20) business days, or any extension thereof, the Parties hereby agree to negotiate a mutually acceptable solution. Upon approval, Engineered Solutions' design plans and the other documents provided by Ameresco will constitute the "***Construction Documents***" hereunder. Customer represents and warrants that it has authorized and designated Engineered Solutions to work with Ameresco as the Engineer of Record to perform the required completion and submission of forms, submittals, and ECM (as defined below) designs to NYSED, for an amount as specified in Attachment F, and under contract to Ameresco.

(ii) **Construction Work:** Upon the occurrence of: (i) the issuance of NYSED approval for an amount of State Building Aid which the Parties agree in writing is sufficient for the purposes of the Project; (ii) the delivery by Customer to Ameresco of a Notice To Proceed (as defined in Section 4); and (iii) Ameresco's receipt of evidence of the funding

of an escrow account pursuant to the Lease (as defined in Section 3) with funds sufficient for the payment of the Contract Cost, Ameresco shall furnish or cause to be furnished all labor, materials, tools, transportation, equipment and perform or cause the performance of all work and services required for the completion of the Scope of Services including the installation of the energy conservation measures as set forth in Attachment B (the "***ECMs***"). Ameresco shall be responsible for: (i) all means, methods, techniques, sequences and procedures required under the Scope of Services; and (ii) the control of all the keys issued to Ameresco by Customer. Ameresco shall diligently pursue completion of the Scope of Services after receiving a Notice to Proceed. Customer and its representatives and Ameresco shall mutually plan the scheduling of the construction work. The construction work will be scheduled to ensure compliance with the substantial completion date, timely completion of the work, and to minimize the interruption of the daily routine of Customer's staff and students except as permitted in writing by Customer.

(iii) **Scope of Services:** The Scope of Services, including the complete design, engineering, procurement, fabrication, installation, and commissioning of the ECMs listed in Attachment B, shall be accomplished in accordance with the efficiency, performance, and other requirements outlined in the CEA and all of the provisions of this Agreement and the Attachments included hereto. The Scope of Services shall also include the preparation of and delivery of "as-built" documentation, licenses, maintenance manuals, warranties, employee training, copies of software (if applicable) and documentation evidencing that the systems are commissioned and operating within the manufacturer's specifications prior to the Customer's execution of the Final Delivery and Acceptance Certificate. Prior to implementation of the ECMs, Ameresco shall provide an ECM specific training plan for Customer approval as outlined in Attachment Q herein.

(iv) **Audit and Inspect Records**: Ameresco at its cost shall maintain, and shall keep for a period of six (6) years after the date of final payment of all amounts under this contract, all records, and other data relating to this Contract, including records of sub consultants, Construction subcontractors, and suppliers. The Customer or the Customer's Representative shall have the right to inspect and audit all records and other data of Ameresco, its subcontractors, sub consultants, and material suppliers relating to this Contract. Any such inspection shall be carried out at Ameresco's place of business, following reasonable prior notice and at the Customer's sole cost and expense.

(b) **Disposal:** Ameresco, at its sole cost and expense, shall be responsible for disposal of all non-hazardous equipment and materials which are rendered useless and removed as a result of the installation of the ECMs (the "***Waste Materials***"). In addition, Ameresco shall, at its sole cost and expense, cause all lamps which are classified as hazardous wastes by the rules and regulations of the U.S. Environmental Protection Agency (40 CFR Parts 260 through 279) and/or the New York State Department of Environmental Conservation (6 NYCRR Parts 370 through 374-3 and 376) and PCB-contaminated ballasts, if any, which have been rendered useless and removed as a result of the installation of the ECMs to be transported and disposed of in accordance with all applicable laws and regulations. All other existing PCB-contaminated ballasts, lamps and any other hazardous materials, outside the scope of the Project however, shall remain the responsibility of Customer and Ameresco shall assume no liability in connection with their removal, transportation and disposal. Ameresco will provide Customer documentation relating to the removal, transportation and disposal of all hazardous materials.

(c) **Asbestos and Lead Paint:**

(i) **Asbestos:** The Scope of Services is predicated on the viability of the Project without Ameresco encountering or disturbing asbestos or being required to perform any asbestos abatement or taking any other action with respect to asbestos except where Ameresco is to perform work hereunder which will disturb friable and/or non-friable asbestos containing building material ("***ACBM***") or materials assumed to contain friable and/or non-friable asbestos ("***ACM***") within the buildings on the Property as identified in Customer's most recent Three Year AHERA Inspection Report ("***AHERA Report***") and as may be specified in the CEA. Customer hereby represents and warrants that it has provided to Ameresco a true, correct and complete copy of its AHERA Report. With the exception of ACBM and ACM identified in the AHERA Report and CEA (collectively, the "Asbestos Reports") or hidden/unforeseen asbestos, in the event that Ameresco: (A) encounters any friable or non-friable asbestos which is in the immediate vicinity of its work, (B) determines that its work will result in the disturbance of asbestos material, or (C) determines that the presence of asbestos material will impede its work, Ameresco will notify Customer immediately of the same and Customer shall confirm whether the area in question was included in the Asbestos Reports or is a hidden/ unforeseen condition. If Customer determines that the area was not included in the Asbestos Reports and was hidden/unforeseen, the Customer, at its cost, shall promptly perform tests or cause tests to be performed in order to determine whether or not such material contains asbestos and/or whether there are unacceptable levels of airborne particulate material containing asbestos and provide such test reports to Ameresco. If such tests reveal no presence of ACBM or ACM, Ameresco shall reimburse Customer for the actual cost of such tests. If the tests reveal that asbestos is present, Customer, with its consultants will determine the means and methods to proceed with the work, including whether the asbestos should be promptly and properly removed, enclosed, encapsulated or otherwise abated in accordance with all applicable laws, regulations and guidelines at Customer's expense, the work can be altered to avoid the asbestos or alternatively in consultation with Ameresco remove the affected area from the Scope of Services (and make commensurate adjustments to the rights and obligations of the Parties). Under no circumstances, shall Ameresco be required to handle asbestos which is not so identified in Asbestos Reports and is a hidden/unforeseen condition. In the event Ameresco encounters asbestos which is not so identified and which materially affects its progress of the Project, Ameresco, at its option, may demobilize and cease construction in the area affected by the presence of such asbestos until such time as Customer performs the actions required to be performed by Customer as provided herein. In the event that Customer notifies Ameresco that it will not take such action, Ameresco may, at its option, terminate this Agreement in its entirety in accordance with Section 12(a). Customer shall be responsible for termination costs incurred by Ameresco that relate to the presence of asbestos that is not identified in the Asbestos Reports and is a hidden/unforeseen condition. The Parties agree that the Scope of Services and Contract Cost may be amended in a writing signed by each Party (on such terms and conditions mutually acceptable to each Party) to include work and services relating to asbestos.

(ii) **Lead Paint:** Where and if applicable, Ameresco will, at its cost, promptly perform tests or cause tests to be performed in order to determine whether or not such paint contains lead, and will provide such test reports to Customer. In the event that such test reports demonstrate the presence of lead paint or Ameresco reasonably believes that performing its services under this Agreement is likely to cause the disturbance of lead paint in such a manner as to require Ameresco to provide any notification or take any actions pursuant to any federal, state or local laws, rules, regulations or guidelines and Ameresco notifies Customer of the same, Ameresco will, in either case, at its cost, cause the lead paint to be promptly and properly removed, or otherwise abated in accordance with all applicable

laws and regulations. The Parties agree that the Scope of Services and Contract Cost may be amended in a writing signed by each Party (on such terms and conditions mutually acceptable to each Party) to include work and services relating to lead paint.

(d) **Maintenance and Monitoring**: To the extent provided for in Attachment H, Ameresco will service and maintain during the Term (as defined in Section 5) the equipment scheduled on Attachment H, at a cost to Customer as set forth in Section 4 and Attachment F. Except for the ECMs (or other equipment) which are to be maintained by Ameresco, Customer, at its own cost, shall be responsible for servicing and maintaining the ECMs (and such other equipment). To the extent provided for in Attachment L, Ameresco will supply such ongoing monitoring services during the Term at a cost to Customer as set forth in Section 4 and Attachment F.

(e) **Compliance with Law:** Ameresco shall, at its sole cost and expense, comply with and obtain all applicable licenses and permits required by Federal, state and local laws in connection with (i) the installation of the ECMs, (ii) the operation and/or maintenance of the ECMs (to the extent that Ameresco agrees to perform such operations and/or maintenance services) and (iii) disposal of materials as described in Section 1(b) and (c). In the event that Ameresco cannot procure any such license or permit in light of a requirement that Customer is required to do so, Customer shall promptly procure the same. Ameresco shall comply with all applicable Federal and state labor and non-discrimination laws and pay the required prevailing wage rates for work in connection with the Project pursuant to the New York State Labor Law, including Ameresco shall provide payroll certification with each invoice in accordance with Labor Law Section 220.

(f) **Taxes:** Customer hereby represents and warrants to Ameresco that Customer is a governmental entity and that it shall cooperate with Ameresco and provide Ameresco with all appropriate documentation so that Ameresco may establish that it does not have to pay taxes, fees and assessments or other charges of any character which may be imposed or incurred by any governmental or public authority as an incident to title to, ownership of, or operation of the ECMs.

(g) **Non-Discrimination:** Ameresco agrees not to knowingly or willfully discriminate against any employee, or applicant for employment, to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of age, sex, sexual orientation, race, disability, color, religion, national origin, marital status, military service or ancestry in accordance with applicable Federal, New York State or local laws.

(h) **Standards of Service and Comfort:** Customer shall operate the ECMs in a manner that shall provide the standards of service and comfort provided for in Attachment J.

(i) **Installation/Specifications:** Prior to the commencement of work hereunder, upon request of the Customer, Ameresco will provide a sample installation of, or written specification of, any ECM to be installed (each, a "***Sample***"). Customer shall furnish written approval or disapproval of each Sample within twenty (20) business days following Customer's receipt of Ameresco's written notice of installation and/or delivery of such Sample. Customer's approval of such Sample shall be in substantially the form of Attachment K. If Customer disapprove any such Sample, Ameresco shall have the right to provide a substitute specification or ECM (each, a "***Substitution***") which conforms to the applicable specifications or is equivalent to any applicable Sample previously approved by Customer. Upon Customer's written approval of a Substitution, Ameresco shall revise the Attachments to reflect each such Substitution. If, however, Customer does not approve of any Substitution, Ameresco will provide an equivalent substitute for approval by Customer, such approval not to be unreasonably withheld.

(j) Duties, Obligations and Responsibilities of Ameresco:

(i) All labor furnished under this Agreement shall be competent, qualified and licensed, if required, to perform the tasks undertaken, all materials and equipment provided shall be new and of excellent quality and the completed work shall comply in all material respects with the requirements of this Agreement and industry standards. Ameresco employees assigned to work on the project are subject to the approval of the Customer, such approval not to be unreasonably withheld.

(ii) Ameresco shall maintain the Project site in a clean condition, including maintaining dust control during the performance of the construction work set forth in Section 1(a).

(iii) Ameresco shall clean the Project site of all debris, trash and excess material or equipment on a daily basis.

(iv) During the construction work set forth in Section 1(a), Customer and/or any of its representatives may enter upon the Project site to review or inspect the construction work, and agree to comply with all applicable Federal, state and local safety laws, rules and regulations, including, without limitation, those promulgated by the U.S. Department of Labor Occupational Safety & Health Administration.

(v) Ameresco will provide training of Customer personnel, equipment manuals and other appropriate information and deliver all manufacturers' warranties, operating manuals, software, as-built drawings regarding equipment installed hereunder to Customer at or after the time of Substantial Completion (as defined in Section 4) and before the issuance of a Final Delivery and Acceptance Certificate.

(vi) At all times relevant to this Agreement, Ameresco will comply with the rules and regulations of the Commissioner of Education that govern school construction and maintenance of school facilities (as they apply to work under this Agreement), and Customer's policies, rules, and regulations, in effect as of the date hereof, governing its facilities.

(vii) If requested, Ameresco shall provide assistance to Customer to secure procurement of electricity, fuel oil and other utilities at a mutually acceptable price to be separately negotiated.

(viii) Prior to construction, Ameresco shall deliver to Customer, a schedule identifying anticipated installation dates of the ECMs including anticipated substantial completion dates and Customer shall deliver to Ameresco its written approval thereof. Ameresco shall also provide bi-weekly progress update reports to the Customer which shall include, but not be limited to, updates on SED approval of the Project.

(ix) During construction, Ameresco shall meet with the Customer to provide bi-weekly progress reports to the Customer and its representatives, which shall include, but not be limited to, updates to schedules of work, delays and project completion. Ameresco further, agrees to meet with Customer on an as-needed basis to discuss any and all aspects of the Project.

(x) Ameresco will be responsible for initiating and maintaining safety precautions and programs in connection with its construction of the Project, including compliance with OSHA 10. Ameresco will insure that all of its construction managers and subcontractors' construction workers assigned to the project and who will be on site attend on-site safety

training as reasonably required by the Customer and provide training in accordance with OSHA 10. The Customer shall supply to Ameresco for its review information on the Customer's required training. Ameresco will take precautions for the safety of, and shall provide protection to prevent damage, injury, or loss to: (i) property and employees of the Customer and employees of Ameresco and subcontractors performing work under this Agreement, (ii) Ameresco's property and other materials to be incorporated for the Project, under the care, custody, and control of Ameresco or its subcontractors, and (iii) other property at or adjacent to the Property not designated for removal, relocation, or replacement during the course of construction. Ameresco will provide proper picture ID for all personnel working on the Property. Ameresco and its contractors must attach a copy of proof of completion of the OSHA 10 course to the first certified payroll submitted to the Customer and on each succeeding payroll where any new or additional employee is first listed. Proof of completion may include: copies of bona fide course completion card; training roster, attendance record of other documentation from the certified trainer pending the issuance of the card.

(xi) Ameresco shall ensure that its subcontractors shall comply with the terms of this agreement, adjusted for each subcontractor's scope of work, and shall provide the Customer a list of its subcontractors and subcontractor's agreements within three (3) days of the Customer's request.

(xii) As an independent contractor to the Customer, Ameresco will be responsible for providing, or causing to be provided by Ameresco's subcontractor(s), all labor, materials, equipment, tools, transportation, and other facilities and services necessary for the proper execution, construction, and completion of the Work as defined in the Scope of Services and any Change Orders. Ameresco is hereby required to purchase all necessary materials and supplied for the construction of the Project in order to assure the prompt and timely delivery of the completed Work pursuant to the Project Schedule. Ameresco will also be responsible for all means, methods, techniques, sequences, and procedures employed for the construction required by the final Construction Documents. Ameresco will be responsible for the control of all keys issued by the Customer. Ameresco will minimize duplicating or distribution of building floor plans and drawings.

(xiii) Ameresco will coordinate the construction activities with Customer, and minimize disruption to the Customer's operations at the project location. Ameresco will provide at least five (5) business days' written notice to the Customer of any major planned utility outages that will be necessary for the construction. Ameresco will cooperate with the Customer in scheduling such outages, and the Customer agrees to provide its reasonable approval of any scheduled outage. Ameresco will provide a written safety plan to the Customer. Ameresco will work with the Customer to fix any unplanned outages that are caused by Ameresco or their subcontractors as expeditiously as possible.

(xiv) Ameresco shall ensure that all its employees, contractors, and subcontractors working at the Customer's site are paid in accordance with New York State Labor Law, and wear identification badges and conform to Customer's security and access to facilities, rules and regulations.

Section 2. Ownership of and Security Interest in the ECMs.

Title to each ECM and other personal property installed or incorporated into the ECMs shall at all times during the Term remain in the name of Ameresco. If, notwithstanding the intent of the Parties, Customer is deemed to hold title to the ECMs and as security for the payment in full of the Contract Cost, Customer hereby assigns, transfers and grants to Ameresco a security interest in all of the ECMs. Customer hereby

authorizes Ameresco to file, with copies to Customer from time to time, Uniform Commercial Code financing statements in such jurisdictions as may be necessary to perfect and maintain its security interest in the ECMs. If requested by Ameresco, Customer agrees to execute and deliver all further instruments and documents and take all further action that may be necessary in order to create, perfect and protect Ameresco's security interest in the ECMs and hereby irrevocably appoints Ameresco as Customer's attorney-in-fact with full power to sign such instruments and documents. Any provision in this Section to the contrary notwithstanding, ownership and title to an ECM shall automatically pass to Customer and Ameresco's security interest in such ECM shall be released and terminated, in each case without further action on either Party's part, upon Ameresco's receipt of both (A) the executed Substantial Completion Certificate (as defined in Section 4) for such ECM and (B) the indefeasible payment in full of all of Customer's payment obligations to Ameresco for such ECM.

SECTION 3 Financial Services.

(a) Energy Performance Contract Municipal Lease and Option to Purchase Agreement:

(i) Customer hereby represents and warrants to Ameresco that Customer intends to enter into a lease ("***Lease***") with a third party lessor ("***Lessor***"). Customer shall not become obligated to execute such Lease nor shall Ameresco become obligated to commence construction work in accordance with Section 1(a)(ii) in the event that NYSED approval is not obtained, New York State legislation or other legislative or regulatory developments adversely affect the amount of State Building Aid available to Customer for the Project.

(ii) Customer agrees and acknowledges that its obligation to make the payments to Ameresco set forth in this Agreement are in no way contingent on the effectiveness of the Lease.

(iii) The Parties agree and acknowledge that the Lease payments and financing costs, including interest, will not take effect until after the Customer has received confirmation of the full amount of State Building Aid available for the Project.

(b) The Parties anticipate that the Annual Energy Cost Savings (as defined in Attachment E) guaranteed hereunder pursuant to Section 6, shall be not less than the Guaranteed Savings (as defined in Section 6(a)). If, prior to the execution of the Lease, any (i) changes in capital costs from a Scope of Services modification by the Customer or NYSED, (ii) changes in interest rates or (iii) other events, circumstances or developments cause or may have the effect of causing the Annual Energy Cost Savings to be less than the Guaranteed Savings, then the Parties agree to mutually and reasonably attempt to negotiate a reduction or modification of the applicable construction/contract costs by removing components of the ECMs to be otherwise installed hereunder in order to ensure that the Annual Energy Cost Savings shall be no less than the Guaranteed Savings. If the Parties cannot agree to such reduction or modification, then Customer and Ameresco shall each have the option, exercisable upon written notice to the other Party, to terminate this Agreement. In that regard, Customer acknowledges and agrees that Ameresco has incurred and will incur further costs and expenses relating to the preconstruction services described in Section 1(a)(i). If Customer exercises such option to terminate this Agreement, Customer shall pay Ameresco an amount not to exceed $325,000 for services rendered prior to termination in recognition of such preconstruction services (but excluding costs Ameresco may have incurred for lead paint and asbestos tests), as documented by personnel time logs, receipts, invoices, and such records and verification as the Customer may reasonably require. Such obligation to pay for preconstruction services shall be effective immediately upon Customer's signing of this Agreement and shall not be subject to approval per Section 36.

(c) **Utility DSM and SBC Programs:** Ameresco will provide Customer with copies of all rebates and/or incentives, applications and awards that Ameresco receives in connection with the services provided under this Agreement. Ameresco will guarantee Customer an amount equal to $397,669 from rebates and/or incentives in connection with the Project, inclusive of any amounts paid directly to the Customer, over the Term. For incentives paid directly to Ameresco, Ameresco will pay such amount to Customer at the time when such rebates and/or incentives are received by Ameresco under each applicable program and shall provide the Customer with written documentation of the amount of the rebates/incentives it received and an itemized breakdown of the origin of the rebates/incentives. Should the Project's actual rebate and/or incentives over the Term be less than the amount set forth in the first sentence of this Section, Ameresco will incur such shortfall and pay Customer the difference. In addition, the Customer will retain any rebates and/or incentives that exceed the $397,669 amount referenced in the second sentence of this subparagraph (c). All available rebates and incentives for the Project belong to Customer. Ameresco will assist the Customer in filing for and securing incentive payments available as a result of this Project from NYSERDA, DSM and SBC programs or other entity.

The NYS Solar incentive program is yet to be fully rolled out. If a net metering arrangement cannot be confirmed, the Customer has the option to reduce the size of the solar array to actual on-site load.

SECTION 4 Compensation and Monthly Progress Payments.

(a) For each month beginning with the construction period of the Project following Customer's issuance to Ameresco of the notice to proceed substantially in the form of Attachment C (the "***Notice to Proceed***") proceeding to the end of construction, Customer shall make monthly progress payments to Ameresco based upon equipment delivered to and received by the Customer on the work site and the percentage of the Project completed at the end of each month. Ameresco shall be paid the amount of each progress payment due Ameresco less five percent (5%) retainage. Following the end of each month, during the construction period of the Project, Ameresco will provide to Customer an invoice together with a list in sufficient detail to reasonably identify: the work performed, ECMs or portions thereof installed during that month, include payroll certifications in accordance with the Article 8 of the NYS Labor Law, and such other documentation as required by the Customer. Within thirty (30) days after the invoice has been approved by Customer, Customer shall pay or cause to be paid to Ameresco the undisputed amount due under such invoice. Ameresco shall invoice for all retainage amounts associated with an ECM after the date of the Substantial Completion Certificate for such ECM, and Customer shall pay or cause to be paid to Ameresco said amount within thirty (30) days after receipt of said invoice.

(b) Within thirty (30) days following each successive twelve (12) month period beginning with the first day of the month following the date of the Final Delivery and Acceptance Certificate, Customer shall pay Ameresco the separate amounts provided for in Attachment F, if any, as an annual fee for monitoring services.

(c) Within thirty (30) days following each successive twelve (12) month period beginning with the first day of the month following the date of the Final Delivery and Acceptance Certificate, Customer shall pay Ameresco the separate amounts set forth in Attachment F, if any, for maintenance (as described in Attachment H) and/or operations services, if any, as agreed by the Parties and to be performed or provided by Ameresco.

(d) If Customer desires, and Customer and Ameresco agree, Customer may purchase an extended

warranty from Ameresco on all equipment installed under this Agreement on mutually agreeable terms and conditions as set forth in Attachment F and Attachment M.

(e) All amounts not paid to Ameresco on or before the due dates specified in Sections 4(a), (b), (c) and (d) shall accrue interest at the same rate per annum as paid to the Lessor under the Lease for the number of days following each such due date until such time as such amount due has been paid in full unless Customer has informed Ameresco of a deficiency in Ameresco's performance of the services under this Agreement, which deficiency has not been corrected. If Ameresco is prohibited by law from charging interest at said Lease rate but is instead limited by law to charging a maximum rate which is a lower rate, Ameresco shall charge interest at said lower rate.

(f) Upon Substantial Completion of the installation of an ECM (or portion thereof, as applicable), Ameresco will schedule with Customer, a post-installation inspection of such ECM. Upon the inspection of such ECM and determination of the satisfactory installation and operation thereof, Ameresco will deliver to Customer a substantial completion certificate in the form of Attachment I (the "***Substantial Completion Certificate***"). Within fifteen business days after receipt of each Substantial Completion Certificate, Customer shall either reject the Certificate in writing or approve, complete, execute and deliver to Ameresco each such Substantial Completion Certificate and list thereon any punch list items. After execution of the Substantial Completion Certificate and completion of punch list items, the submittal of all licenses, operating manuals warranties, as-built drawings, to Customer and completion of staff training Ameresco shall schedule a final inspection of all ECMs with Customer. If after such final inspection of the work including the completed punch list items, a delivery and acceptance certificate in the form of Attachment D (the "***Final Delivery and Acceptance Certificate***") shall be executed by Customer and delivered to Ameresco within fifteen business days after the final inspection of the installation of all the ECMs under this Agreement. Customer shall not unreasonably withhold, condition or delay (i) the scheduling of or attendance at a post-installation inspection or (ii) the execution and delivery of any Substantial Completion Certificate or the Final Delivery and Acceptance Certificate. As used in this Agreement, the term "***Substantial Completion***" shall mean that the subject ECM has been installed by Ameresco and tested for operation or commissioned where applicable, and, if such ECM is equipment, said equipment has been tested or commissioned, and is then operating in a manner such that Customer is deriving beneficial use thereof. The execution and delivery of a Substantial Completion Certificate and/or the Final Delivery and Acceptance Certificate shall not constitute a waiver of any rights or remedies Customer may exercise under this Agreement, at law or in equity.

SECTION 5 Term.

The term of this Agreement (the "***Term***") shall begin on the date above first written and shall end on that date which is exactly eighteen (18) years from the first day of the month following the date of Customer's execution of the Final Delivery and Acceptance Certificate, unless this Agreement is terminated prior to such date, as provided for in Sections 12, 14 or 32. Anything in this Agreement to the contrary notwithstanding, Customer shall not be relieved of its obligation to pay Ameresco when due all undisputed amounts which accrued prior to such termination.

SECTION 6 Guarantee of Energy Savings.

(a) Ameresco hereby represents and warrants to Customer that the amount of the Annual Energy Cost Savings (as defined in Attachment E) shall exceed the "***Guaranteed Savings***" (as specified in Table 6(a) below), in each year of the Term (the "***Guarantee of Energy Savings***").

Table 6(a)

Year	Guaranteed Savings

1	$373,913
2	$383,870
3	$394,095
4	$404,594
5	$415,376
6	$426,447
7	$437,815
8	$449,490
9	$461,478
10	$473,789
11	$486,431
12	$499,413
13	$512,744
14	$526,435
15	$540,494
16	$554,932
17	$569,759
18	$584,985

For purposes of the Guarantee of Energy Savings, the following assumptions and provisions shall apply

(i) Calculation of the Annual Energy Cost Savings, inclusive of energy savings and operational and maintenance cost savings, shall be performed under, and governed by, the methods, formulas, and procedures described in Attachment E.

(ii) As it relates to the Annual Energy Cost Savings and the Guarantee of Energy Savings, the term "*year*" shall mean the consecutive twelve (12) month period beginning with the first day of the month following the date of the Final Delivery and Acceptance Certificate (the "***Anniversary Date***"), and each similar twelve (12) month period thereafter. The Annual Energy Cost Savings will be measured on an annual basis, as of each Anniversary Date, and excess savings beyond the Guaranteed Savings shall not roll over from year to year

(iii) The unit prices, including the escalation thereof, to be used to calculate the Annual Energy Cost Savings for the purposes of the Guarantee of Energy Savings are described in Attachment E.

(iv) The Guarantee of Energy Savings herein is subject to Customer performing its maintenance and other obligations under this Agreement. Ameresco must provide the Customer written notice within thirty (30) days of the date Ameresco determines the Customer failed to perform, or failed to properly perform, its obligations under this Agreement or interfered with, or permitted any person to take any action which, in the reasonable opinion of Ameresco, prevents the achievement of the Annual Energy Cost Savings under the Guarantee of Energy Savings. Upon such notice, the parties may in writing agree to (which consent shall not be unreasonably withheld), equitably adjust the Annual Energy Cost Savings during the period wherein savings were affected to reflect the same. Ameresco's rights in this section shall not be in limitation of any other rights it possesses under this Agreement.

(v) The Guaranteed Savings shall not include building aid attributable to Ameresco's work or services hereunder.

(vi) In the event Ameresco fails to meet the performance guarantee, the Customer may elect to terminate the Agreement with Ameresco, or take such other actions as allowed by law, all in accordance with the terms of this Agreement.

(b) Ameresco will perform and submit to Customer a written guarantee reconciliation after each Anniversary Date and within forty-five (45) days after Customer delivers to Ameresco all utility billing and other data necessary for Ameresco's completion of such reconciliation ("***Guarantee Reconciliation***"). The Guarantee Reconciliation will calculate the cumulative Annual Energy Cost Savings achieved in relation to the cumulative annual Guaranteed Savings measured for the twelve (12) month period being reconciled.

(c) Ameresco hereby guarantees that if the Annual Energy Cost Savings realized by Customer as of any Anniversary Date, as detailed in the Guarantee Reconciliation, is less than the Guaranteed Savings as of such Anniversary Date, then Ameresco will: (1) pay to Customer that amount by which the Guaranteed Savings exceeds the Annual Energy Cost Savings, and (2) such payment to be made within 45 days after the date of the Guarantee Reconciliation. In the event Ameresco fails to pay Customer as provided herein, and such failure continues for a period of ten (10) business days after written notice of overdue payment is delivered by Customer to Ameresco, Ameresco shall be in default as described in Section 11(b), and Customer may terminate this Agreement.

SECTION 7 Access to Property.

During the Term, Customer shall provide Ameresco, its employees, agents and subcontractors, including any utility which provides any payment referenced in Section 3(c), access to the Property for the purpose of fulfilling Ameresco's obligations under this Agreement, during such times as will not materially interfere with the operations of Customer's programs at its facilities, it being acknowledged by Customer that construction activities may interfere to some extent with day-to-day activities . Customer shall provide mutually satisfactory space for the installation and operation of the ECMs and shall protect such equipment in the same careful manner that Customer protects its own property, except that the Customer assumes no liability for losses, damages, theft or destruction of ECMs before the date that the ECMs are accepted by the Customer, unless such damage is caused by Customer.

SECTION 8 Changes in Work. [Intentionally omitted.]

SECTION 9 Warranties.

(a) Ameresco warrants that the design, engineering, and installation services it performs will be performed consistent with good engineering practices and that such work is warranted to be free from defects in materials and workmanship for a period of one (1) year from the date of execution of a Substantial Completion Certificate by Customer for such work. Any manufacturers' warranties which exceed this one (1) year period shall be assigned to Customer to the extent allowed by the manufacturer. Except as provided above, AMERESCO MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER STATUTORY, WRITTEN, ORAL OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO THE VALUE, DESIGN, AND CONDITION OR FITNESS FOR USE OR PARTICULAR PURPOSE OR MERCHANTABILITY, REGARDING THE ECMS OR ANY SERVICES PROVIDED HEREUNDER.

(b) Customer may purchase extended warranty coverage for equipment installed hereunder as provided in Section 4(d).

SECTION 10 Customer Role and Responsibilities.

(a) **Operations:** Customer shall operate the equipment installed hereunder in accordance with the manufacturers' written recommendations and the written procedures supplied to Customer by Ameresco.

(b) **Maintenance:** Customer shall, at its expense, repair, operate and maintain the Property in good working order during the Term. Except as may otherwise be provided for in Attachment H, following the date of Substantial Completion of an ECM Customer shall, at its expense, repair and maintain (i) the equipment and all other components which comprise the ECM and (ii) all other equipment which is attached thereto and/or is integral to the proper functioning of the ECM.

(c) **Malfunctions:** Customer shall notify Ameresco as soon as practicable of any malfunction in the operation of the ECMs or the equipment installed hereunder.

(d) **Protection of ECM:** Except in the case of emergency, Customer shall not remove, move, alter, turn off or otherwise significantly affect the operation of the equipment installed hereunder or the operation of the ECMs, or any individual part thereof, without the prior written approval of Ameresco, which approval shall not be unreasonably withheld. After receiving Ameresco's written approval, Customer shall proceed as instructed. Customer shall act reasonably to protect the ECMs from damage or injury, if, due to an emergency, it is not reasonable to notify Ameresco before acting. Customer agrees to protect and preserve the facility envelope and the operating condition of all ECMs, mechanical systems, and other energy consuming systems located on the Property.

(e) **Measurement System:** Customer shall not alter, move, modify or otherwise change the measurement and verification system or any component thereof without the prior written consent of Ameresco unless such action is in accordance with operating procedures provided by Ameresco.

(f) **[Intentionally Omitted.]**

(g) **Changes to Property or Addition of Equipment:** For Customer's guidance, Ameresco shall provide a list of the types of changes to property and addition of equipment, including "plug-in" devices that may have an effect on the energy usage, attached herein as Attachment R. Ameresco shall also quantify the threshold percentage or volume necessary that could trigger an effect on the energy usage for each item listed in Attachment R. Customer shall notify Ameresco in writing at least thirty (30) days prior to making any change(s) to the Property that would reasonably be expected to have an effect on the energy usage at the Property including, without limitation, changes in (i) the hours, days or time of year that the Property is occupied or operated, (ii) the activities conducted at the Property and (iii) the equipment, the facilities, or the size of the Property. Customer shall notify Ameresco regarding material increases, over time, in numbers and usage of "plug in" devices such as computers and printers. In the event that Ameresco receives such notification or otherwise determines that such a change has occurred, it will make the appropriate revisions to the Attachments or take such other action as may be provided for hereunder subject to the written approval of the Customer, such approval not be unreasonably withheld. Annually, as part of the Guarantee Reconciliation, Ameresco shall notify the Customer in writing in accordance with Section 24 below of Customer's obligation to notify Ameresco of any changes that may affect energy usage.

(h) **Energy Usage Data:** If requested in writing by Ameresco, Customer shall provide to Ameresco, on a monthly basis during the Term (and in any event, within 30 days of its receipt of the same),

copies of all energy bills, energy usage data, and any and all other such documentation maintained by Customer, as requested by Ameresco, which is necessary for Ameresco to determine and satisfy all of its obligations under this Agreement.

(i) **Insurance and Risk of Loss or Damage:** Without limiting any of its obligations or liabilities under this Agreement, Customer shall, at its expense, provide and maintain at all times during the Term, sufficient insurance against the loss or theft of or damage to the ECMs, the related equipment and all components installed hereunder, for the full replacement value thereof.

Customer assumes all risk of loss of or damage to the ECMs from any cause whatsoever, except to the extent that such loss or damage was caused by the negligence of Ameresco. Upon damage to any item of the equipment installed hereunder or the ECMs, Customer shall promptly notify Ameresco and immediately place the same in good repair with the proceeds of any insurance received applied to the cost of such repair. If Customer determines that any item of the ECMs are lost, stolen, confiscated, destroyed or damaged beyond repair, Customer shall replace the same with like equipment in good repair in a timely fashion.

If at any time after the date of the Final Delivery and Acceptance Certificate and after Customer's complete payment to Ameresco in accordance with Section 4(a), as such amount may be modified from time to time in accordance with this Agreement, any fire, flood, other casualty, or condemnation renders a majority of the Property incapable of being occupied and renders the ECMs or the equipment installed hereunder inoperable and, in the case of a casualty, the affected portion of such ECMs or equipment is not reconstructed or restored within one hundred and twenty (120) days from the date of such casualty, Ameresco and/or Customer may terminate this Agreement by delivery of a written notice to the other Party. Upon such termination, Customer shall pay Ameresco all undisputed amounts, or pro-rata portions thereof, for documented services rendered prior to the termination under Sections 4(b), (c), (d) and (e) and Attachment F.

(j) **Telephone and Internet:** Customer shall be responsible for installing and maintaining telephone lines and all associated costs, including internet/Ethernet charges, for the energy management system's telephone and communication lines. Ameresco may use Customer's LAN for the purposes of the energy management system.

(k) **Protection:** Customer shall at all times act reasonably to protect the ECMs from damage, theft or injury to the same extent and in the same manner in which it protects its other property.

(l) **Alteration:** Customer shall not move, alter or change the ECMs in any way that causes a reduction in the level of efficiency or savings generated by any ECM or the equipment installed hereunder without obtaining Ameresco's prior written approval which shall not be unreasonably withheld.

(m) **Storage:** Customer shall to the extent that the space is available and it will not interfere with Customer's operations, provide reasonable rent free space for Ameresco and/or its subcontractors, to mobilize and store their supplies, tools and equipment during installation of the ECMs or other activities by Ameresco within the Property pursuant to this Agreement for which such storage may be required. Ameresco shall be responsible to secure all such storage space. Only Ameresco and/or its subcontractors and Customer's assigned personnel shall have access to the storage. Customer assumes no responsibility or liability for any loss, damage, theft, or destruction of the items stored nor will Customer provide any additional security for the storage provided.

(n) **Fuel:** Customer shall procure and pay for all energy and fuel for the operation of the Property.

(o) **Filings:** Customer shall make all filings required by NYSED relating to the Project, which are

not made by Ameresco. Such filings include, but are not limited to, providing information, demonstrations of fact and certifications required by 8 NYCRR Section 155.20. Ameresco will cooperate with Customer regarding such filings.

SECTION 11 Defaults by Customer and Ameresco.

(a) Customer shall be in default under this Agreement upon the occurrence of any of the following:

(i) Customer fails to pay when due any undisputed amount to be paid under this Agreement and such failure continues for a period of twenty (20) business days after written notice of overdue payment is delivered by Ameresco to Customer; or

(ii) any representation or warranty made by Customer in this Agreement or in any writing delivered by Customer pursuant hereto proves at any time to have been false, misleading in any material respect as of the time when made; or

(iii) Customer fails to perform or meet any of its required duties or obligations under this Agreement and fails to cure such failure and the effects of such failure within thirty (30) days of receipt of written notice of default, unless such failures and effects cannot be completely cured within thirty (30) days after said written notice, in which case a default shall exist only if Customer does not commence and diligently pursue to cure such failure and effects as soon as possible; or

(iii) Customer goes into receivership, or makes an assignment for the benefit of creditors whether voluntary or involuntary, or a petition is filed by or against Customer under any bankruptcy, insolvency or similar law and such petition is not dismissed within sixty (60) days.

(b) Ameresco shall be in default under this Agreement upon the occurrence of either of the following:

(i) Ameresco fails to perform or meet any of its required duties or obligations under this Agreement and fails to cure such failure or effects of such failure within thirty (30) days of receipt of written notice of default, unless such failure or effects of such failure cannot be completely cured within thirty (30) days after said written notice, in which case a default shall exist only if Ameresco does not commence and diligently pursue to cure such failure as soon as possible; or

(ii) Ameresco goes into receivership, or makes an assignment for the benefit of creditors whether voluntary or involuntary, or a petition is filed by or against Ameresco under any bankruptcy, insolvency or similar law and such petition is not dismissed within sixty (60) days; or

(iii) Any representation or warranty made by Ameresco in this Agreement or in any writing delivered by Ameresco pursuant hereto, proves at any time to have been false, misleading or erroneous in any material respect as of the time when made.

SECTION 12 Remedies for Defaults.

During the continuance of a default under this Agreement, the non-defaulting Party may (i) bring actions for any remedies available at law or in equity or other appropriate proceedings for the recovery of direct damages, (including amounts past due) or (ii) without recourse to legal process, terminate this Agreement by delivery of written notice of termination.

SECTION 13 **Arbitration.** [Intentionally omitted.]

SECTION 14 **Termination.**

At any time after the date of the Final Delivery and Acceptance Certificate, Customer may terminate this Agreement upon thirty (30) days prior written notice to Ameresco, provided that Customer has paid to Ameresco all undisputed amounts due, subject to Section 32, as set forth in Section 4 (including, without limitation, pro-rata portions thereof for documented services rendered prior to termination under Sections 4(b), (c), (d) and (e)) and on Attachment F (other than amounts due for future performance by Ameresco).

SECTION 15 **Insurance.**

Ameresco shall provide and maintain, at its expense, the following minimum insurance coverage where reasonable market availability for such insurance exists:

(a) Workers' Compensation and Employer's Liability Insurance at the level required by law; occupational sickness or disease or death of Ameresco's employees or death of any person other than Ameresco's employees.

(b) Commercial General Liability Insurance, including contractual liability, including coverage for: Products and Completed Operations; contractual liability insuring the obligations assumed by Ameresco in this Agreement; Broad Form Property Damage (including Completed Operations); and Explosion, Collapse and Underground Hazards: Bodily Injury per occurrence, $1 million; Property Damage per occurrence, $1 million; Personal Injury per occurrence, $1 million; and Excess Liability, $15 million.

(c) Comprehensive Automobile Liability Insurance, including owned, non-owned and hired automotive vehicles with a combined single limit of $1 million per occurrence, and excess liability of $15 million, covering bodily injury (including death) and property damage.

(d) Ameresco shall, after receipt of the Notice to Proceed and prior to the commencement of construction, deliver to Customer payment and performance bonds in a sum equal to the Contract Cost (the "***Payment and Performance Bonds***") with sureties licensed by the State of New York and satisfactory to Customer. Such Payment and Performance Bonds shall be in form and substance as set forth in Attachment N and shall be conditioned upon the faithful performance by Ameresco, for the implementation of the ECMs. The Payments and Performance Bonds shall only apply to the installation portion of this Agreement and do not apply in any way to energy savings guarantees, payments or maintenance provisions, except that the performance bond shall guarantee that the installation will be free of defective materials and workmanship for a period of twelve (12) months following completion and acceptance of the work.

(e) Customer shall provide and maintain insurance as described in Section 10(i).

(f) Ameresco shall deliver to Customer prior to commencement of the work, in a form as set forth in Attachment O, a Certificate of Insurance naming Customer as an additional insured party, evidencing the coverage provided under subsections (b) and (c) above. Ameresco shall provide Customer with at least thirty (30) days' notice of cancellation of such insurance.

(g) The insurance coverage, whether written as an occurrence or claims made basis, shall be maintained without interruption from the date of commencement of the work until the date of final payment and termination of any coverage required to be maintained after final payment. If any of the foregoing insurance coverages are required to remain in effect after final payment, an

additional certificate of insurance evidencing the continuation of such coverage shall be submitted to receive the Final Delivery and Acceptance Certificate.

(h) In the event the insurance coverage provided by Ameresco includes a deductible, such deductible which shall remain the sole obligation and expense of Ameresco.

(i) All subcontractors shall be required to provide and submit documentation of insurance coverage in the same form and amount as specified herein prior to the start of work, adjusted based on the scope of work of such subcontractor.

(j) Ameresco shall provide contractor's pollution liability insurance of $1,000,000 occurrence and $2,000,000 aggregate. Such insurance shall include, the removal, enclosure, encapsulation and/or disposal of asbestos or any other pollution event as defined by the policy, including coverage for third party liability claims for bodily injury, property damage and clean-up costs. If motor vehicles are used for the transport of hazardous materials, Ameresco or its subcontractors shall provide pollution liability broadened coverage as well as proof of MCS 90. Coverage shall be continuously renewed for a period of three (3) years following the acceptance of the Final Delivery and Acceptance Certificate.

SECTION 16 Indemnification.

(a) Except as otherwise expressly provided herein, neither Party nor its respective officers, directors, agents, employees, parent, subsidiaries or affiliates or their officers, directors, agents or employees shall be liable, irrespective of whether such claim of liability is based upon breach of warranty, tort, (including negligence, whether of any of the Parties to this Agreement or others), strict liability, contract, operation of law or otherwise, to any other Party, or its parent, subsidiaries, affiliates, officers, directors, agents, employees, successors or assigns, or their respective insured, for incidental, indirect, punitive or consequential damages, connected with or resulting from performance or non-performance of this Agreement, or anything done in connection therewith including, without limitation, claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), and increased expense of, reduction in or loss of power generation production or equipment used therefore.

(b) Ameresco's liability in contract for direct damages under this Agreement shall in all cases be limited to the sum of the payments received by Ameresco under Section 4. Ameresco's liability in tort (including negligence) will, in all cases, be limited to direct damages relating to physical damage to Customer's Property.

(c) Ameresco's liability to Customer in tort (including negligence) will, in all cases, be limited to the proceeds of insurance maintained by Ameresco pursuant to the requirements of this Agreement.

(d) Ameresco agrees to defend, indemnify and hold harmless Customer, its officers, agents and employees, from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses (including reasonable attorney's fees), suits or damages arising by reason of bodily injury, death or damage to property to the extent caused by Ameresco's negligence (or the negligence of any sub-contractor hired by Ameresco) or willful misconduct. To the extent that any such damages are covered by the Commercial General Liability Insurance policy that is maintained by Ameresco, Ameresco shall not be required to indemnify Customer in excess of five million dollars ($5,000,000). Ameresco, however, in no event shall be obligated to indemnify Customer to the extent that any injury or damage is caused by the negligence of Customer or any individual or entity for which Customer is legally responsible.

(e) Customer agrees to defend, indemnify and hold harmless Ameresco, its officers, agents and employees, from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses (including reasonable attorneys' fees), suits, or damages arising by reason of bodily injury, death or damage to property to the extent caused by Customer's negligence or willful misconduct. To the extent that any such damages are covered by a general liability insurance policy that is maintained by Customer, Customer shall not be required to indemnify Ameresco in excess of any liability insurance policy coverages. Customer, however, in no event shall be obligated to indemnity Ameresco to the extent that any injury or damage is caused by the negligence of Ameresco or any individual or entity for which Ameresco is legally responsible.

SECTION 17 Agreement Interpretation and Performance.

The interpretation and performance of this Agreement, and the interpretation and enforcement of the rights of the Parties hereunder, shall be construed in accordance with and governed by the laws of the State of New York. In the event of any ambiguity or conflict in meaning, the terms of this Agreement shall not be construed against the drafting Party based upon that Party's having drafted this Agreement. All lawsuits commenced under this Agreement shall be brought in the New York State Supreme Court, or other court having jurisdiction, for the County of Dutchess.

SECTION 18 Privileged and Proprietary Information.

All requests from a third party for information or documents from Ameresco, including those marked as privileged and proprietary will be processed in accordance with the District's Record Access Policy and FOIL (Public Officers Law Section 87).

SECTION 19 Severability.

Any term or provision of this Agreement that is declared invalid by any court of competent jurisdiction, shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement.

SECTION 20 Assignments and Subcontracting.

(a) Ameresco may elect to use subcontractors in meeting its obligations hereunder. Customer shall approve in advance (which approval shall not be unreasonably withheld, conditioned or delayed) all subcontractors and professional sub-consultants, whose contracts, in each case, exceed $400,000. Ameresco shall ensure that its subcontractors conform to the terms and conditions of this Agreement, adjusted for each subcontractor's scope of work. In the event that any subcontractors and/or professional sub consultants violates the terms of this Agreement or is deemed unfit by the Customer, as reasonably determined by Customer, the Customer may rescind its approval of such subcontractors and/or professional sub consultants.

(b) Customer shall not assign, transfer, or otherwise dispose of, in whole or in part, this Agreement, the ECMs, or any interest therein, or sublet or lend the ECMs or permit the ECMs to be used by anyone other than Customer and Customer's employees without the prior express written consent of Ameresco (or, if applicable, the Lessor) such consent not to be unreasonably withheld, conditioned or delayed. If Customer transfers ownership or its interest in the Property, Customer shall terminate this Agreement in accordance with Section 14.

(c) Ameresco shall not assign this Agreement, in whole or in part, to any other party without first obtaining the written consent of Customer, *provided, however*, that Ameresco may assign, without the prior written consent of Customer, its rights and obligations under this Agreement, in whole or in part, to any affiliated or associated company of Ameresco. Any such assignment described in the preceding sentence shall not be effective unless the assignee to whom this

Agreement is assigned first agrees in writing to assume all duties and obligations of Ameresco under this Agreement. The foregoing notwithstanding, Ameresco may assign, without the prior written consent of Customer, its rights for payments under this Agreement to any financial institution, lender or investor in connection with a leasing or financing arrangement for the ECMs. Ameresco will notify Customer twenty (20) business days prior to any such assignment and Customer agrees to acknowledge receipt of such notice in writing within five (5) business days after such notice.

SECTION 21 Waiver.

The failure of either Party to require compliance with any provision of this Agreement shall not affect that Party's right to later enforce the same. It is agreed that the waiver by either Party of performance of any term of this Agreement or of any breach thereof will not be held or deemed to be a waiver by that Party of any subsequent failure to perform the same or any other term or condition of this Agreement or any breach thereof.

SECTION 22 Force Majeure.

(a) If either Party shall be unable to carry out any part of its obligations under this Agreement (except Customer's obligation to make payments when due) due to causes beyond its control ("***Force Majeure***"), including but not limited to an act of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts of terrorism, orders or restraints of any kind of the government of the United States or any state or any of their departments agencies or officials or any other civil governmental, military or judicial authority, war, blockage, insurrection, riot, sudden action of the elements, fire, explosion, flood, earthquake, storms, drought, landslide, or explosion or nuclear emergency, this Agreement shall remain in effect but the affected Party's obligations shall be suspended for a period equal to the disabling circumstances, provided that:

(i) To the extent possible, the non-performing Party gives the other Party prompt written notice describing the particulars of the Force Majeure, including but not limited to the nature of the occurrence and its expected duration, and continues to furnish timely regular reports with respect thereto during the period of Force Majeure;

(ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

(iii) no obligations of either Party that arose before the Force Majeure causing the suspension of performance are excused as a result of the Force Majeure;

(iv) the non-performing Party uses reasonable efforts to remedy its inability to perform; and

(v) the Term, at Ameresco's option, shall be extended for a period equal to the number of days that the Force Majeure prevented the non-performing Party from performing.

(b) Any decision by Customer to close or change the use of the facilities or ECMs at the Property shall not constitute a Force Majeure excusing Customer's performance under this Agreement.

SECTION 23 Contract Documents.

(a) Upon execution of this Agreement by both Parties, this Agreement and its Attachments [including Wappingers Central School District's Request for Proposal (Attachment S), Ameresco's

Response to District Request for Proposal (Attachment T), Comprehensive Energy Audit (CEA) dated November 8, 2017 (Attachment U)], (collectively, the "Contract Documents") shall constitute the entire Agreement between the Parties relating to the subject matter hereof, and shall supersede all proposals, previous agreements, discussions, correspondences, and all other communications, whether oral or written, between the Parties relating to the subject matter of this Agreement.

(b) Section headings used herein are for the convenience of reference only and are not to be construed as a part of this Agreement.

(c) This Agreement may not be modified or amended except in writing signed by the Parties.

SECTION 24 Notices.

All notices, requests, demands, claims and other communications hereunder shall be in writing. Any notice, request, demand, claim or other communication hereunder (other than regularly scheduled payments) shall be deemed properly given or made upon receipt if delivered in person or sent by electronic facsimile with regular mail follow-up, or five business days after being deposited in the mail if sent by registered or certified mail, return receipt requested, postage prepaid, or the next business day if sent by overnight delivery service, in each case, addressed as follows:

Wappingers Central School District
167 Myers Corners Rd, Suite 200
Wappingers Falls, New York 12590
Attention:
E-mail:
Facsimile:

Ameresco, Inc.
111 Speen Street, Suite 410
Framingham, Massachusetts 01701
Attention: Michael J. Daigneault
Vice President
Facsimile: 508.661.2201

Either Party may change such address from time to time by written notice to the other Party.

SECTION 25 Records.

To assist Ameresco in its performance of this Agreement, Customer shall (to the extent it has not already done so) furnish (or cause its energy suppliers and transporters to furnish) to Ameresco, upon its written request, accurate and complete data (kept by Customer or Customer's energy suppliers and transporters in the regular course of their respective businesses) concerning energy usage for the existing facilities at the Property. Such records shall include, without limitation, the following data for the most current thirty-six (36) month period: (i) utility records; (ii) occupancy information; (iii) descriptions of any changes in building structure or heating, cooling or other systems or energy requirements; (iv) descriptions of all energy consuming or saving equipment used on Property; and (v) descriptions of all energy management procedures presently utilized. If requested by Ameresco, Customer shall also provide any prior energy analyses of the Property to the extent reasonably available.

SECTION 26 Representations and Warranties.

Each Party warrants and represents to the other that:

(a) it has all requisite power, authority, licenses, permits and franchises, corporate or otherwise, to execute and deliver this Agreement and perform its obligations hereunder;

(b) its execution, delivery and performance of this Agreement have been duly authorized by, and are in accordance with, as to Ameresco, its organic instruments and, as to Customer, by all requisite

municipal, school board or other action and are not in breach of any applicable law, code or regulation;

(c) this Agreement has been duly executed and delivered by the signatories so authorized, and constitutes its valid and binding obligation;

(d) its execution, delivery and performance of this Agreement shall not result in a breach or violation of, or constitute a default under, any agreement, lease or instrument to which it is a party or by which it or its properties may be bound or affected;

(e) it has not received any notice of, nor to the best of its knowledge there is no, pending or threatened violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially adversely affect its ability to perform its obligations hereunder; and

(f) the persons executing this Agreement are duly authorized to do so.

(g) Customer represents and warrants to Ameresco that Customer has obtained all necessary governmental, legal, administrative and any other approval necessary for it to enter into this Agreement.

SECTION 27 Independent Contractor.

Nothing in this Agreement shall be construed as reserving to Customer any right to exercise any control over or to direct in any respect the conduct or management of business or operations of Ameresco. The entire control or direction of such business and operations shall be in and shall remain in Ameresco, subject only to Ameresco's performance of its obligations under this Agreement. Neither Ameresco nor any person performing any duties or engaged in any work on the Property on behalf of Ameresco shall be deemed an employee or agent of Customer. Nothing in this Section shall be deemed to be a waiver of Customer of the right to use its property. Customer and Ameresco are independent of one another and shall have no other relationship relating to or arising out of this Agreement. Neither Party shall have or hold itself out as having the right or authority to bind or create liability for the other by its intentional or negligent act or omission, or to make any contract or otherwise assume any obligation or responsibility in the name of or on behalf of the other Party.

SECTION 28 Additional Representations and Warranties of Customer.

Customer to the best of its knowledge, at the time of execution of this Agreement hereby warrants and represents to Ameresco that:

(a) Customer intends to continue to use the Property in a manner reasonably similar to its present use;

(b) Customer does not contemplate any changes to the electrical and thermal consumption characteristics of the Property as these existed during the base period except as may have been disclosed in writing by Customer to Ameresco prior to the date of this Agreement;

(c) Customer has provided Ameresco with and Ameresco acknowledges that it has received all records heretofore requested by Ameresco (and, in that regard, Ameresco acknowledges that it has received base period data from Customer which appear to be complete as of the date of this Agreement) and that the information set forth therein is, and all information in other records to be subsequently provided pursuant to this Agreement shall be, true and accurate in all material respects except as may be disclosed by Customer in writing;

(d) Customer has not entered into any contracts or agreements for the Property with persons or entities other than Ameresco regarding the installation of the energy services referenced herein, which does not include contracts for utility services or maintenance.

(e) Since the date of the CEA, there has been no change, event, circumstance or development that has or could reasonably be expected to have a material adverse effect on (i) the operation or condition of the Property, (ii) the energy usage at the Property, or (iii) the ability of Customer to perform its obligations hereunder.

(f) Customer has delivered to Ameresco and Ameresco acknowledges that it received, if any, complete copies of all policies, rules and regulations concerning its facilities.

SECTION 29 Absence of Fraud or Collusion.

Ameresco hereby certifies, by its execution of this Agreement, that no official or employee of Customer has any pecuniary interest in this Agreement or in the expected profits to arise hereunder, and that this Agreement is made in good faith without fraud or collusion with any other person involved in the bidding process.

SECTION 30 Negligent/Wrongful Acts.

It is understood and agreed that neither Party to this Agreement shall be liable for any negligent or wrongful acts, either of commission or omission, chargeable to the other, unless such liability is imposed by law, and that this Agreement shall not be construed as seeking to either enlarge or diminish any obligation or duty owed by one Party against the other or against third parties.

SECTION 31 Further Documents and Events.

The Parties shall execute and deliver all instruments and documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Agreement. Ameresco agrees to execute and deliver all documents reasonably required to release any lien held by Ameresco or its assignees upon the termination of this Agreement and payment of all amounts required to be paid by Customer to Ameresco pursuant to this Agreement. Customer agrees to execute and deliver all documents which may be required by an entity which provides funds for any financing contemplated herein and to cooperate with Ameresco in obtaining such funds. Customer agrees to execute and deliver all instruments and documents which may be required to obtain all licenses, permits and governmental approvals required by Ameresco for installation and operation of the ECMs. Customer agrees that Ameresco may apply to obtain any tax credits or benefits that are associated with the installation of the ECMs that Customer is not eligible to receive. Ameresco's obligations hereunder are subject to obtaining all such required licenses, permits and governmental approvals.

SECTION 32 Non-Appropriation.

(a) This Agreement shall be deemed executory only to the extent of the monies appropriated and available for the purpose of this Agreement, and no liability on account therefore shall be incurred beyond the amount of such monies. This Agreement is not a general obligation of Customer. The full faith and credit of Customer is not pledged to the payment of any amount due or to become due under this Agreement. It is understood that neither this Agreement nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purposes of this Agreement. Notwithstanding the foregoing statutory provision, Customer hereby covenants and agrees that, subject to said statutory limitations, Customer shall take all necessary and timely action during the Term to

obtain funds and maintain appropriations sufficient to satisfy its obligations under this Agreement (the "***Obligations***") including, without limitation, providing for the Obligations in each required budget submitted to obtain applicable appropriations.

(b) Notwithstanding Customer's rights to terminate under the terms of this Agreement, Ameresco and Customer agree that upon the occurrence of all the events described in subparagraphs (i) through (iv) below (collectively, the "***Non-Appropriation Occurrence***") that Customer may terminate this Agreement during the fiscal year in accordance with Section 14 (subject to said statutory limitations), effective the first day of any fiscal year (July 1 through June 30) for which funds have not been appropriated. The descriptions of the following events are not intended nor shall they impose requirements beyond the current term of the presently constituted Board of Education of Customer or its statutory obligations or authorizations, but rather to set forth occurrences which give rise to the right of Customer to terminate this Agreement.

(i) An authorized governmental action, or non-action, of the Board of Education of Customer, including a board of education to be constituted in the future, shall have resulted in the lack of an appropriation of funds sufficient to satisfy the Obligations and Customer shall have provided Ameresco a true, correct and complete copy of a document describing such action.

(ii) Customer shall have exhausted all available funds and have no funds available from any other legally authorized source to satisfy the Obligations.

(iii) Customer shall have provided written notice to Ameresco of the governmental action resulting in the lack of appropriations of funds (as described in subsection (i)) within twenty (20) days of Customer's knowledge thereof.

(iv) Customer shall have fully performed its obligations described in subsection (a) above.

SECTION 33 Third Party Beneficiaries.

Except as may be specifically provided for in this Agreement, the Parties hereto do not intend to create any rights for, or grant any remedies to, any third party beneficiary of this Agreement.

SECTION 34 Notifications of Governmental Action - Occupational Safety and Health.

The Parties agree to notify each other as promptly as is reasonably possible upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety and Health Act or any other provision of federal, state or local law rule or regulation relating in any way to the undertakings of either Party under this Agreement.

SECTION 35 References.

Unless otherwise stated all references to a particular "***Attachment***" or to "***Attachments***" are to the referenced Attachment or Attachments which are attached to this Agreement and all such referenced Attachments are incorporated by reference within this Agreement. All references herein to a Section or subsection shall refer to a Section or a subsection, as the case may be, of this Agreement unless this Agreement specifically provides otherwise.

SECTION 36 Approval.

This Agreement and any written Amendment hereto is subject to approval of both the Customer's Board of Education ("Board") and, where applicable, by the Commissioner of Education of the State of New York and shall not be executory until approved by the Board and Commissioner

* * * * * *

IN WITNESS WHEREOF, the duly authorized officers or representatives of the Parties have set their hand on the date first written above with the intent to be legally bound.

WAPPINGERS CENTRAL SCHOOL DISTRICT

Peggy Kelland
Authorized Signature

Name: Peggy Kelland

Title: President, Board of Education

AMERESCO, INC.

Michael J. Daigneault
Vice President

ATTACHMENT A

PROPERTY DESCRIPTION

The following buildings, facilities, and areas, which are owned and operated by Customer, are included in the Scope of Services detailed in Attachment B:

Facility	Address
Brinckerhoff ES	16 Wedgewood Drive, Fishkill, NY, 12524
James S. Evans ES	747 Old Route 9N, Wappingers Falls, NY, 12590
Fishkill ES	20 Church Street, Fishkill, NY, 12524
Fishkill Plains ES	17 Lake Walton Road, Wappingers Falls, NY, 12590
Gayhead ES	15 Entry Road, Hopewell Junction, NY, 12533
Kinry Road ES	58 Kinry Road, Poughkeepsie, NY, 12603
Myers Corners ES	156 Myers Corners Road, Wappingers Falls, NY, 12590
Oak Grove ES	40 Kerr Road, Poughkeepsie, NY, 12601
Sheafe Road ES	287 Sheafe Road, Wappingers Falls, NY, 12590
Vassar Road ES	174 Vassar Road, Poughkeepsie, NY, 12603
Van Wyck JHS	6 Hillside Lake Road, Wappingers Falls, NY, 12590
Wappingers JHS	30 Major MacDonald Way, Wappingers Falls, NY, 12590
John Jay HS	2012 Rt. 52, Hopewell Junction, NY, 12533
Roy C. Ketcham HS	99 Myers Corners Road, Wappingers Falls, NY, 12590

ATTACHMENT B

SCOPE OF SERVICES

DESCRIPTION OF THE ENERGY CONSERVATION MEASURES AND EQUIPMENT

This Attachment B provides a description of existing equipment and the ECMs and related equipment to be installed by Ameresco at the facilities scheduled on Attachment A. Installation of the ECMs and the included equipment is subject to change if Ameresco discovers unforeseen conditions at the Property that render its preliminary analysis of the Property inaccurate, or significantly affect Ameresco's anticipated economic benefit or the Guarantee of Energy Savings.

This Attachment B includes by reference the CEA dated as of November 7, 2017 for the Property and submitted under separate cover.

The following table summarizes the ECMs recommended and described in the CEA that are specifically incorporated into the Scope of Services:

Wappingers Central School District Energy Conservation Measures (ECMs)	Interior Lighting System Improvements	Exterior Lighting System Improvements	Solar PV Array	Demand Controlled Ventilation	Plug Load Controls	Walk-in Cooler Controls	Kitchen Appliances	
Facility	1	2	3	4	5	6	7	
Brinckerhoff ES	X		X		X	X	X	
James S. Evans ES	X	X	X	X	X			
Fishkill ES	X	X			X			
Fishkill Plains ES	X	X			X		X	
Gayhead ES	X	X			X			
Kinry Road ES	X	X			X	X		
Myers Corners ES	X	X		X	X			
Oak Grove ES	X	X			X	X		
Sheafe Road ES	X	X			X	X	X	
Vassar Road ES	X	X	X		X		X	
Van Wyck JHS	X		X	X	X			
Wappingers JHS	X			X	X			
John Jay HS	X	X		X	X		X	
Roy C. Ketcham HS	X	X	X		X	X	X	
Facilities & Operations	X				X	X		
Bus Garage - Fishkill Plains	X							
Bus Garage - Wapp Jr.	X	X						
Bus Garage - Transportation	X	X						
District/Orchard View	X							

ATTACHMENT C

NOTICE TO PROCEED

[PLACE ON CUSTOMER LETTERHEAD]

Michael J. Daigneault
Vice President
Ameresco, Inc.
111 Speen Street, Suite 410
Framingham, MA 01701

SUBJECT: NOTICE TO PROCEED

Dear Mr. Daigneault:

In accordance with Section 1(a) of the Energy Services Agreement (the "***ESA***") dated as of _____ __, 2018, by and between the Wappingers Central School District ("***Customer***") and Ameresco, Inc. ("***Ameresco***"), Customer hereby submits to Ameresco this Notice to Proceed in relation to the Scope of Services as defined in the ESA.

Sincerely,

WAPPINGERS CENTRAL SCHOOL DISTRICT

By:_____
Duly Authorized Signatory

Name:_____

Title:_____

Date:_____

ATTACHMENT D

FINAL DELIVERY AND ACCEPTANCE CERTIFICATE

[PLACE ON CUSTOMER LETTERHEAD]

Michael J. Daigneault, Vice President
Ameresco, Inc.
111 Speen Street, Suite 410
Framingham, Massachusetts 01701

Re: Energy Services Agreement (the "***ESA***"; capitalized terms used and not defined herein shall have the meanings given to such terms in the ESA) dated as of _____ __, 2018 by and between Wappingers Central School District ("***Customer***") and Ameresco, Inc. ("***Ameresco***")

Dear Mr. Daigneault:

Customer hereby acknowledges its receipt and acceptance of all ECMs described in Attachment B of the ESA which are installed and in good working condition.

Sincerely,

WAPPINGERS CENTRAL SCHOOL DISTRICT

By:_____
Duly Authorized Signatory

Name:_____

Title:_____

Date accepted:_____

ATTACHMENT E

DETERMINATION OF ENERGY COST SAVINGS

Section F of the Comprehensive Energy Audit is hereby incorporated herein by reference.

Ameresco certifies that measurement and verification techniques for determining cost savings will be performed in accordance with the North American Energy Measurement and Verification Protocol, March 1996, including any updates.

Ameresco further certifies that any state building aid attributable to this project has been excluded in determining the cost savings and payback period under this Agreement.

The determination of energy cost savings are limited to the cost savings calculated for that year alone and will not be augmented by any excess savings achieved over the term of this Agreement.

ATTACHMENT F

CONTRACT COST AND ANNUAL SERVICES

(a) Contract Cost: Customer shall pay to Ameresco, an amount equal to Five Million Eight Hundred Eighty Seven Thousand Two Hundred Six Dollars and No Cents ($5,887,206.00) (the "***Contract Cost***") in accordance with the terms described in Section 4 of this Agreement. The Contract Cost includes all preconstruction services described in Section 1(a)(i) of this Agreement (at 4.75% of the Contract Cost) and all construction services through final completion as described in this Agreement.

(b) Operations and/or Maintenance / Monitoring:

Year	Monitoring / M&V	Maintenance	Total
1	$10,300	$37,310	$47,610
2	$10,609	$38,430	$49,039
3	$10,927	$39,583	$50,510
4	N/A	$40,770	$40,770
5	N/A	$41,993	$41,993
6	N/A	$43,253	$43,253
7	N/A	$44,551	$44,551
8	N/A	$45,887	$45,887
9	N/A	$47,264	$47,264
10	N/A	$48,682	$48,682
11	N/A	$50,142	$50,142
12	N/A	$51,646	$51,646
13	N/A	$53,196	$53,196
14	N/A	$54,792	$54,792
15	N/A	$56,435	$56,435
16	N/A	$58,129	$58,129
17	N/A	$59,872	$59,872
18	N/A	$61,669	$61,669

(c) Other Annual Services: Not applicable.

(d) Extended Warranty: Not applicable.

ATTACHMENT G

[INTENTIONALLY OMITTED]

ATTACHMENT H

MAINTENANCE SERVICES

The following maintenance services are included:

ECM 3 – Solar PV Array

Solar PV Operational and Maintenance Service Procedures for system monitoring, service response to alarms and performing annual Preventive Maintenance for the life of the installed solar PV arrays with our customers. The Operations and Maintenance Scope of Services outline included here within provides the details of the monitoring and preventive maintenance program that will be followed throughout the Term of the Agreement. Commencing at the date of Final Delivery and Acceptance.

Monitoring and analytics as well as the annual preventive maintenance program are the tools that will be used in the effort to maintain complete functionality of the system. Included in these services are the following:

- Ongoing operational monitoring of the system, alarm analysis and appropriate service response as and when required.
- Perform an Annual Preventative Maintenance (PM) Inspection
- Record inspection results on Maintenance Checklist documents highlighting any deficiencies.
- Review PM inspection documents and develop a corrective action plan for any deficiencies noted during the PM inspection and perform any required repairs in a timely manner.
- Utilize monitoring and PM program to ensure that the system/equipment is functioning correctly and operating as intended.
- Regularly review current, past, and/or reoccurring problems with equipment/system especially those affecting system production. Perform root cause analysis and develop corrective action plan(s).
- For the Term of the project. Ameresco will be responsible for the following:
  - Ameresco will provide scheduled and unscheduled maintenance on the installed equipment as part of this ECM, including all labor and parts, including equipment replacement.
  - Provide corrective maintenance of equipment to include material for replacement of failed equipment for the term of the contract.
    - applicable to the PV modules, DC/AC Power Inverters, data acquisition system components, and PV panel racking system.
    - Site inspections shall be limited to 5 corrective maintenance site inspection per year.
  - Any service or repairs due to circumstances other than normal wear and tear of the unit are not included in this Agreement. The services does not apply to equipment damage or failure due to acts of nature or vandalism.

SOLAR O&M SCOPE OF SERVICES

SERVICE SCHEDULE	
Service Description	**Frequency**
Data Acquisition System Monitoring (note 1)	
○ **Production analytics**	
○ Power Generation	Daily
○ Predicted Power	Daily
○ **Plant alert management**	
○ Device reporting alarms	Daily
○ Inverter fault code alarms	Daily
○ Monthly performance alarms	Monthly
○ **System reports**	
○ Relevant metrics with preceding inspection	Semi-Annual
○ Relevant metrics with preceding year	Semi-Annual
○ Plant alarm summary	Semi-Annual
○ Corrective action summary	Annual
Annual Preventative Maintenance Reporting	
REPORT DELIVERY TO SYSTEM OWNER	**Frequency**
○ Overall system analysis	Annual
○ Annual Month by Month PV Production Report as supplied by DAS provider	Annual
○ I-V Curve Trace testing results of strings analyzed via monitoring system as possibly underperforming (providing DAS data is available)	Annual
○ System visual inspection including readily accessible roof penetrations (if applicable)	Annual
○ Thermal image scans of all readily available electrical gear	Annual
○ Thermal image scans of a representative amount or suspected problem array modules	Annual
○ Itemized list of prescribed corrective maintenance items with supporting images when applicable	Annual
○ Overview and verification of monitoring system function	Annual
Annual Preventative Maintenance Site Visit	
INVERTER AREA	**Frequency**
○ Thermal image scans of all readily available PV related gear	Annual
○ Voltage readings of AC and DC at inverter	Annual
○ Cleaning interior of inverter and cleaning of inverter filters with compressed air	Annual
○ All readily available terminations checked for torque	Annual

○ Representative Photos	Annual
○ Perform Manufacturers Annual Preventive Maintenance Requirements check list	Annual
ELECTRICAL INTERCONNECTION	
○ Visual and thermal image scan of this area where possible without shutdown to building or creating an unsafe work environment	Annual
CONDUIT RUNS	
○ Visual inspection of PV system conduit runs	Annual
○ Spot check conduit coupler, connector, straps, and strut for integrity	Annual
ARRAY LOCATION(S)	
Visual scan of entire array with focus to individual module level noting	
○ Broken module glass	Annual
○ Racking Damage	Annual
○ Loose racking and module clamps	Annual
○ Debris around or under array	Annual
○ Roof damage from PV racking	Annual
○ *Spot checks of the following array items where readily accessible*	Annual
○ Ground bushings	Annual
○ Racking Grounding	Annual
○ Module grounding	Annual
○ Combiner box grounding	Annual
○ Module clamp torques	Annual
○ *DC string level testing*	Annual
○ I-V Curve Trace on representative or suspected problem strings	Annual
String level Predicted vs. Measured	
○ Pmax (W)	Annual
○ Vmp (V)	Annual
○ Imp (A)	Annual
○ Voc (V)	Annual
○ Isc (A)	Annual
○ Fuse continuity	Annual
○ All string terminations checked for torque	Annual
○ All combined output terminations checked for torque	Annual
○ Irradiance and cell temperatures taken during testing	Annual
MONITORING System Components	
○ Inspect data acquisition components and confirm software/firmware upgrades are current	Annual
○ Readily accessible array location sensors checked for proper function	Annual

Note:1 The Active Monitoring and Alert Management daily and monthly services referenced above will be performed by

the installed data acquisition and analytics system. These items are provided by the analytics software automatically and can be viewed through the provided interface to the software package. Ameresco personnel will not be providing these reports directly.

ATTACHMENT I
CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT NAME & ADDRESS: _____

PROJECT NO.: _____
CONTRACT DATE: _____
DESCRIPTION: _____

The installation of [list each ECM being accepted with this certificate] under the Agreement has/have been reviewed and found to be substantially complete. The date of Substantial Completion of the forgoing ECM(s) is hereby established as:

SUBSTANTIAL COMPLETION DATE: _____

The date of Substantial Completion of an ECM is the date certified by Customer when such ECM is sufficiently complete in accordance with the Agreement so that Customer derives beneficial use thereof.

The Substantial Completion date set forth above is the date of commencement of applicable warranties for such ECM(s), as required by the Agreement. A list of items to be completed or corrected is identified below as punch list items. The failure to include any items on such punch list does not alter the responsibility of Ameresco to complete all work in accordance with the Agreement. Ameresco will complete and/or correct the work listed below as punch list items within 30 days after the above date of Substantial Completion.

CONTRACTOR: Ameresco, Inc., 111 Speen Street, Suite 410, Framingham, Massachusetts 01701

AUTHORIZED SIGNATURE: _____ **DATE:** _____

NAME: _____
(type or print)

CUSTOMER: Wappingers Central School District, 167 Myers Corners Road, Suite 200, Wappingers Falls, NY 12590

AUTHORIZED SIGNATURE: _____ **DATE:** _____

NAME: _____
(type or print)

AUTHORIZED SIGNATURE: _____ **DATE:** _____

_____

AUTHORIZED SIGNATURE: _____ **DATE:** _____

CONSTRUCTION

_____
(type or print)

PUNCHLIST ITEMS

Attach additional page(s) as necessary. Number of pages attached _____.

ATTACHMENT J

STANDARDS OF SERVICE

In general, the space temperature will be maintained as follows:

Heating Season - (October 15th through April 30th)

Space	Maximum average temperature
Occupied	70 deg F
Unoccupied	55 deg F
Storage area requiring heat	40 deg F, except where existing use does not permit
Areas not requiring heat	Minimum temperature required to prevent damage to the facility

Cooling Season (May 1st through October 14th)

Space	Minimum average temperature
Occupied	76 deg F
Unoccupied	N/A
Storage area requiring heat	N/A
Areas not requiring heat	N/A

ATTACHMENT K

TEST INSTALLATION ACCEPTANCE LETTER

[PLACE ON CUSTOMER LETTERHEAD]

Date_____

Michael J. Daigneault
Vice President
Ameresco, Inc.
111 Speen Street
Suite 410
Framingham, MA 01701

Re: Energy Services Agreement (the "***ESA***"; capitalized terms used and not defined herein shall have the meanings given to such terms in the ESA) dated as of _____ __, 2018 by and between Wappingers Central School District ("***Customer***") and Ameresco, Inc. ("***Ameresco***")

Dear Mr. Daigneault:

Customer has reviewed samples of certain ECMs (as set forth on the list attached hereto) to be installed pursuant to the ESA. Customer hereby approves such ECMs and, if applicable, their respective lighting levels, for installation in Customer's Property located at [_____]. Ameresco and its lenders may rely upon Customer's approval herein for the purpose of procuring such ECMs to be used in the performance of the ESA.

Sincerely,

WAPPINGERS CENTRAL SCHOOL DISTRICT

By:_____
Duly Authorized Signatory

Name:_____

Title:_____

Date:_____

ATTACHMENT L

MONITORING

In an effort to assist the Customer in maximizing the energy savings, Ameresco will conduct annual inspections at the Customer's Property. The data will be used for informational purposes only, intended to aid the customer in their understanding of the system operation, and will not be used to determine energy savings unless included in the calculations provided in Attachment E.

Annual Inspection Procedures (General)

- Confirm that the system/equipment is functional and operating as intended.
- Verify that the system is being properly maintained. Review current O&M practices to ensure compliance with the contract requirements.
- Review current or past problems with the system, especially those that may affect energy savings.
- Identify any building renovations or changes in the facility operation during the past year that would affect the project performance and/or savings.

ATTACHMENT M

EXTENDED WARRANTY

No extended warranty coverage is included under this Agreement.

ATTACHMENT N

FORM OF PERFORMANCE AND PAYMENT BONDS

ATTACHMENT O

FORM OF CERTIFICATE OF INSURANCE

[attached behind]

ATTACHMENT P

Intentionally Deleted.

ATTACHMENT Q

TRAINING PROTOCOL FOR CUSTOMER'S EMPLOYEES

Training and orientation on the systems installed will vary depending on the complexity of the specific equipment installed for each ECM. Ameresco will provide a minimum of 16 hours of training including at least 1 classroom sessions. Training will be provided in the following levels:

1. For systems and/or equipment that are essentially direct replacements of existing equipment, and where no additional specific skills will be required to perform operations and maintenance functions, training will be limited to a general overview of the equipment installed and a review of the O&M manuals. Training will be directed to the facilities operation and maintenance personnel. The review of the O&M manuals will provide staff with familiarity with the equipment that is installed, manufacturer's recommended maintenance procedures, and warranty information.
2. For systems/equipment that are new to the site and require some general understanding as to their function and operation, training will include a minimal amount of classroom time that will provide an overview of the technology and any specific maintenance or operations requirements. Following the classroom training, a site tour will be conducted to view the installation and operation of the equipment.
3. For systems and/or equipment that are new to the site and more complex in nature, training will consist of classroom training followed by hands-on instruction in the field. Training will be provided through a complement of Ameresco personnel, design engineers, installation contractors, and manufacturer's representatives, as necessary, and will be dictated by the complexity of the installation, participant's prior experience with the equipment that is proposed/installed and contractual obligations. In general, training will consist of the following:

Explanation of the Design Concept

- Design intent
- Energy efficiency considerations
- Seasonal modes of operation
- Emergency conditions and operation
- Comfort conditions and indoor air quality

Systems Operation

- Operation of individual components, instruction from authorized factory technicians, if required
- Physical location of critical shut-off valves, fire, smoke, and balancing dampers, relief valves, safeties, and control panels
- System operational procedures for all modes in manual and automatic modes

Operation of the Control Systems

- Sequences of Operation
- Use of Graphical User Interfaces
- Alarms and problem indicators
- Diagnostics and corrective actions

Service and Maintenance

- Use of the O&M manuals
- Instruction and logging procedures for lubrication
- Instruction from authorized factory technicians, where applicable
- Troubleshooting and investigation of malfunctions
- Recommended procedures for collecting, interpreting, and storing specific performance data

ATTACHMENT R

GUIDLINE ON CHANGES TO ENERGY USAGE

The following list includes potential types of changes to the property and additions of equipment that may have an impact on energy usage and are to be reported to Ameresco by Customer:

- Occupied hours and scheduled operating times
- Number of occupants
- Changes in required space temperatures
- Changes in major heating or electrical system equipment, including capital plans for major renovations
- Changes in the building envelope, including expansion of building area
- Increases in plug load devices such as computers and printers

In general, Customer shall report changes in the above that result in a 5% change from the values as specified in the CEA.

Attachment S
Wappingers Central School District Request For Proposal – Incorporated by Reference

*****

Attachment T
Ameresco Response to Request For Proposal – Incorporated by Reference

*****

Attachment U
Comprehensive Energy Audit dated as of November 7, 2017 – Incorporated by Reference