

ULSTER COUNTY RESOURCE RECOVERY AGENCY

RESOLUTION NO. 2537

RE: Authorizing and Approving the Contract for Community Solar Subscription with Nexamp, Inc.

WHEREAS, the Ulster County Resource Recovery Agency (the "Agency") has publicly issued and advertised a request for proposals for Community Solar Contracts through USOURCE, One Liberty Lane East, Suite #220, Hampton, New Hampshire 03842; and received proposals from one company for such services, and

WHEREAS, Agency staff has conducted a review and analysis of the Proposal for the project which included Proposers' financial information, available equipment and performance references, and now recommends the award of the contract for Community Solar Contracts which would allow the Agency to receive a credit on its utility bill up to 10% savings; as set forth in the attached exhibit; which sets forth the terms of the subscription agreement.

NOW, THEREFORE, BE IT

RESOLVED, that the Ulster County Resource Recovery Agency authorizes and approves the award of the contract for Community Solar Contracts to Nexamp, Inc., 101 Summer Street, 2nd Floor, Boston, MA 02110; and be it

FURTHER RESOLVED, that the contract for Community Solar Agreement shall be in the form and substance as attached and presented to this meeting, and be it

FURTHER RESOLVED, that the Executive Director is hereby authorized to sign and implement such contract in accordance with its terms, and be it

FURTHER RESOLVED, that this Resolution shall take effect immediately.

Moved by: _____

Seconded by: _____

Vote: Ayes _____

Nays _____

Absent _____

Date: April 26, 2021

Financial Impact: (\$7,500)



Ulster County Resource Recovery Agency
 999 Flatbush Road,
 Kingston, NY 12401

March 19th, 2021

We are pleased to offer Ulster County Resource Recovery Agency a share of our community solar farm in Highland, NY which serves the Central Hudson G&E utility territory. Through Community Solar with Nexamp, Ulster County Resource Recovery Agency would save on electricity costs while directly supporting local clean energy development.

We are proposing a designated solar Allocation as described below. We can adjust the Allocation if electricity usage or costs increase or decrease.

The Allocation is expected to generate enough credit annually to offset all or nearly all of the charges (including both supply and delivery) on the utility account(s). This credit will appear as a negative charge on the account's utility bill. In turn, Ulster County Resource Recovery Agency will pay Nexamp \$0.90 for every \$1.00 credited on the bill – our 10% discount.

The 10% discount is fixed throughout your enrollment, even as utility rates fluctuate.

Ulster County Resource Recovery Agency Allocation:		
353.5 kW		
In total, this equates to about 1,140 solar panels at the solar farm. The electricity from these solar panels generate enough credit to offset nearly all charges on your selected accounts.		
Upfront Cost: \$ 0 There is no sign-up cost and no cancellation penalty.	Discount: 10 % You pay \$0.90 for each \$1.00 credited to your electric bill.	Environmental Benefit: 272 Metric tons CO2 offset Equivalent to 719,247 miles driven by an average car.

Assigned Solar Farm	Est. Start Date	Subscription Size, kW (DC)	Est. Credit Value	Est. Year 1 Savings
Account: 36100922008				
Highland solar farm	3/31/2022	353.5kW	\$37,526	\$3,753

Please see the Community Solar Subscription Agreement for your eligible electric account. The Subscription Agreement outlines the terms of our program, which is the most flexible and equitable available in the Northeast U.S. By signing this agreement Ulster County Resource Recovery Agency will reserve its space in the local community solar project and secure the 10% discount.

Spots are limited and filled on a first-come, first-served basis. As of the date of this proposal, the Highland, NY solar farm still has space for new subscribers, and it is estimated to come online around March 2022. If you would like to learn more about the solar farm or our subscription terms, please don't hesitate to reach out.

Sincerely,
 Zach Holt
 Community and Channel Sales Manager
 Mobile: (845) 444-4838 Email: zholt@nexamp.com

Signature of Customer: _____

Date: _____

Community Solar Three Year Subscription Agreement

Parties to this Agreement:

Provider*:

Nexamp, Inc.

Contact: Nexamp Community Solar Team
Email: support@nexamp.com
101 Summer St, 2nd Floor
Boston, MA 02110

Customer:

Company Name: Ulster County Resource Recovery Agency
Contact Name: Timothy Degraff
Email: tdeg@ucrra.org
Phone: (845) 336-0600
Mailing Address:
999 Flatbush Road,
Kingston, NY, 12401

Solar Project: The "Project" is a community solar project located within the following utility territory:

Meter Address (if different from Mailing Address)
RT 32,
Kingston, NY, 12401

Utility: Central Hudson G&E

Utility Account number ("Account"):

36100922008

"Project Operation Date" is anticipated to be (or was): 3/31/2022

"Service Classification": SC2D

"Discount": Ten percent (10%)

"Subscription Size": 353.5 kW DC

If the Project is not currently operational, we will notify you of the actual Project Operation Date which will be the date on which the Utility grants permission to operate the Project.

We may, per the terms of this Agreement, adjust your Subscription Size to better reflect your expected annual electricity consumption and will notify you of any such adjustment.

* Under this Agreement, Nexamp may be referred to as "Provider", "us", "we", or "our" and Customer may be referred to as "you" or "your".

Executing this Community Solar Subscription Agreement and the Community Distributed Generation Disclosure Form (collectively, the "Agreement"), allows Nexamp to direct your Utility to allocate monetary credits from a Nexamp project to your electric Utility bill. The dollar amount of the credit you receive will be based on your Subscription Size as a portion of the Project's electricity output (the "Credit"). In exchange for receiving this Credit on your Utility bill, you will pay us the Credit value less your Discount (the "Price"). For example, if your Subscription Size results in a Credit of \$100, you would receive a credit on your Utility bill of \$100 and you would owe Nexamp only \$90, which is a 10% savings to you.

In a given billing period, if your Subscription Size results in a Credit in excess of your Utility costs, such excess Credits will roll over to be applied towards future Utility costs; and, if your allocated Credit is less than your monthly electricity bill, you will owe the balance to the Utility.

In consideration of the mutual premises, representations, warranties, covenants and conditions herein, the Parties agree as follows.

1. **Term:** The term of this Agreement begins on the date you execute this Agreement (the "Effective Date") and will continue, unless terminated earlier pursuant to the terms herein, through the date upon which the transactions for the final Credit delivery 3 years from the Project Operation Date are complete (the "Term"). Under this agreement, we will act as the "Sponsor" or "CDG Host", and you will act as the "Community Solar Subscriber" or "CDG Satellite." This contract will automatically renew for another 3 year term unless either Party provides written notice of cancellation at least 120 days prior to the end of the current Term. provided however, such renewal may in all events only extend through the 25th anniversary of the Project Operation Date.
2. **Early Termination:** This Agreement may be terminated prior to the end of the Term (the "Early Termination Date") by:
 - a. You pursuant to Sections 8 or 9 of this Agreement;
 - b. Nexamp, upon notice to you (i) at any time prior to the actual Project Operation Date, if we determine that developing the Project no longer feasible, (ii) if community solar is no longer available for the Project, (iii) upon three (3) months prior written notice; (iv) upon your default of this Agreement.

Upon early termination under this Section 2, each Party shall perform all obligations due to the other Party that arose prior to the Early Termination Date (including any transactions for the final Credit delivery) after which, the Parties shall have no further obligations hereunder, except those which survive this Agreement's expiration or termination. You understand that, should excess Credits remain to be applied to your Utility Account at such a time when you terminate this Agreement, you may forfeit the entirety of such excess Credit as required by operation of Utility policies and applicable law.

3. **Sale and Purchase; Payment:**
 - a. We will invoice you for the Price each Utility billing period, and you agree to pay the invoices within 30 days of the invoice date.
 - b. You will automatically be enrolled into our electronic billing program, which features invoice notifications via email and online payment options including auto-payment, ACH, and credit/debit card storage. You can access our online customer portal and your electronic bills at cs.nexamp.com. At any time and without penalty to you, you may opt out of our online billing program or request paper invoices either via our portal or by written notice to us.
4. **Delivery; Change of Account; Acknowledgments:**
 - a. To deliver the Credit to you, we will deliver the Project's electricity to the Utility at the Project meter as the electricity is produced, from the actual Project Operation Date through the Term.
 - b. You understand:
 - i. that the Credit delivered to you in any particular billing period will be reflected on your Account statement according to the Utility's billing cycle.
 - ii. that the Utility will meter and record the Project's electricity production and will apply the Credit to your Utility Account according to our direction;
 - iii. the Utility will be solely responsible for calculating the value of the Credit applied to your Utility bill in accordance with applicable Utility tariffs and applicable law.
 - c. You may change your Utility Account for Credit delivery by written notice to us, provided that your new account is in the same Utility territory as the existing Account or is otherwise approved by us. Our acceptance of the change is contingent on Utility's approval of the change. The last bill for the former account and first bill for the new account will depend on the Utility's tariffs and procedures for disenrolling and enrolling subscriptions.
 - d. You agree that you will not change your Service Classification unless you have requested in writing and received our approval.
5. **Title:**
 - a. As between the Parties, we will claim and receive any and all tax, environmental or other credits, grants, subsidies, renewable energy credits, carbon offset credits, rebates or other benefits related to the Project or its output, and any other benefits or profits of owning the Project (including any capital appreciation), both

presently and in the future. You will NOT have the option to buy any equipment of the Project at any time during or at the end of the Term.

- b. This Section shall survive Agreement termination.

6. **Assignment:**

- a. We (including any successor or subsequent assignee) may assign, sell or transfer the Project and/or the rights and obligations under this Agreement to any person without your consent including making collateral assignments for security purposes, and you hereby consent to the assignment, sale, or transfer of the Project to any lender or financing party (including agents acting on their behalf) and the collateral assignment of our right, title and interest in and to this Agreement as security for any financing incurred by us or our affiliates.
- b. You may not sell, transfer or assign this Agreement, either in whole or in part, or the Credits purchased under this Agreement, to anyone without our express written consent.

7. **Termination for Default.** You will be in default if you fail to make a monthly payment within 60 days of the invoice date, or if you breach, fail to perform or comply with any material covenant, representation or agreement herein set forth in this Agreement and such failure continues for a period of thirty (30) days after receipt of written notice thereof from us. If you are in default, we may terminate this Agreement and disenroll your subscription. If we terminate this Agreement, you may be charged the Price for Credits through the date your subscription with Utility has been disenrolled, plus an administrative fee (not to exceed \$250) for reasonable and documented costs paid by us to collect the amount owed by you. In addition, we may sell Credits to persons other than you and recover from you any loss in revenues. This Section shall not otherwise limit a Party's remedies at law or equity.

8. **Entire Agreement; Modifications in Writing; Survival:** This Agreement contains the Parties' entire agreement, and there are no other agreements between the Parties regarding the Project or the Credit, either written or oral. We reserve the right to amend your Subscription Size to better reflect your expected annual electricity consumption or to designate a replacement Project from time to time with 90 days notice, provided however, that you have a right to terminate this Agreement without penalty within 90 days of our sending such changes by contacting us. Any modification of this Agreement requires the written approval of both Parties. Any delay or failure of a Party to enforce the obligations of the other Party under this Agreement shall not constitute a waiver of such obligations or a Party's right to enforce the same and shall not affect the validity of this Agreement. If any non-material part of this Agreement is held to be unenforceable, the rest of the Agreement will continue in effect. If a material provision is determined to be unenforceable and the Party which would have been benefited by the provision does not waive its unenforceability, then the Parties shall negotiate in good faith to amend the Agreement to restore to the Party that was the beneficiary of such unenforceable provision the benefits of such provision. If the Parties are unable to agree upon an amendment that restores the Parties benefits, the matter shall be resolved by arbitration and an arbitrator may reform the Agreement as the arbitrator deems just and equitable in order to restore to the Party that was the beneficiary of the unenforceable provision the economic benefits of such provision.

9. **Change in Law:** Notwithstanding anything else in this Agreement, if there is a change in law that materially affects our ability to perform obligations under this Agreement or that materially reduces the value of the Credits, we may amend this Agreement as necessary within our discretion on 90 days notice and providing all changes to this Agreement to you. You have a right to terminate without penalty within 90 days of our sending amendments under this provision by contacting us. For the purposes of this section, a change in law is a change federal, regional, state, or local statute, regulation, or guidance, or any decision or interpretation of an agency of such a government (including a court), including but not limited to decisions or interpretations of the New York State Public Service Commission

10. **Governing Law:** This Agreement is governed by the law of the State of New York without giving effect to the principles of conflict of laws that would require the application of any other law.

11. **Notices:** All notices and other formal communications which either Party may give to the other under or in connection with this Agreement shall be in writing or to the email address provided by you, shall be deemed delivered five business days after it was mailed (except notice provided by email shall be deemed delivered when sent), and shall be sent by any of the following methods: first class mail; reputable overnight courier; certified mail, return receipt requested; or email transmission. The communications shall be sent to the Parties' addresses stated on page 1.

12. **Limitation of Liability and Warranty Disclaimer:** TO THE MAXIMUM EXTENT PERMITTED BY LAW
- (A) EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY PUNITIVE DAMAGES OF ANY CHARACTER, RESULTING FROM, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY INCIDENT TO ANY ACT OR OMISSION OF EITHER PARTY RELATED TO THE PROVISIONS OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE (EXCEPT GROSS NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY AT LAW OR EQUITY; AND
- (B) EXCEPT AS EXPRESSLY PROVIDED HEREIN, PROVIDER MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, REGARDING ITS OBLIGATIONS OR THE PROJECT. PROVIDER DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.
13. **Indemnification:** TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTY AND ITS SUCCESSORS AND ASSIGNEES, AND ITS AND THEIR EMPLOYEES, OFFICERS, DIRECTORS AND AGENTS, FROM ANY AND ALL LOSSES, LIABILITIES, DAMAGES, CLAIMS, ACTIONS, COSTS, JUDGMENTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES), PENALTIES, DEMANDS AND LIENS ASSERTED BY OR RESULTING FROM CLAIMS, ACTIONS, SUITS OR DEMANDS BY ANY THIRD PARTY, OF ANY KIND OR NATURE ARISING OUT OF, CONNECTED WITH, RELATING TO OR RESULTING FROM SUCH PARTY'S FAILURE TO COMPLY WITH ANY OF THE TERMS OR CONDITIONS OF THIS AGREEMENT. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.
14. **Cooperation:** You agree to cooperate with us and the Utility as reasonably necessary to ensure this Agreement complies with community shared solar laws and regulations.
15. **Authorization to Receive Historical Consumption Information.** During the Term of this Agreement, you will need to provide your electric utility account information. This information is needed to determine the solar production required to offset your usage; we may under Section 8 of this Agreement propose a different subscription size during Term to reflect changes in your usage patterns.. You authorize Nexamp to request and review your historical electricity information from your local utility as long as you remain a customer under this Agreement. Your utility account information will not be shared with third parties. We reserve the right to update or adjust our utility data policy with notification if these changes impact you based on your contract or subscriber status. Our utility data policy can be found online at: <https://www.nexamp.com/privacy-policy>.
16. **Customer Status with Utility.** You hereby certify to us and permit us to confirm with the Utility that you are not already treated by the Utility as a net metered customer generator, a remote net metered host, or a CDG satellite account. You understand that your treatment under any of the foregoing will disqualify you from receiving Credits from us and shall permit us to immediately terminate this Agreement upon written notice.
17. **Customer's Rights:** You acknowledge that you are advised of your rights under New York's Home Energy Fair Practices Act (a summary of which can be found at http://www.dps.ny.gov/HEFPA_Brochure_12-08.pdf), and under the Uniform Business Practices for Distributed Energy Resources Suppliers (a summary of which can be found at <https://www.nyscrda.ny.gov/-/media/A592A57FE72649FB88DD25E001CA803B.ashx>). You understand that if you have complaints about us or general questions, you may contact the Office of Consumer Services, New York State Public Service Commission, Empire State Plaza, Agency Building 3, Albany, NY 12223-1350, 1-800-342-3377.
18. **Press Releases.** Neither Party shall issue any press release or make any public statement or announcement of any kind or in any form related to the execution and existence of this Agreement, or the sale or purchase of Credits without the express written consent of the other Party.
19. **Customer Representations and Covenants.**

- a. You hereby represent and warrant to us that (a) you have read and understand the terms of this Agreement and have had the opportunity to ask questions of us and to seek the advice of an attorney, if desired, (b) you are duly organized, validly existing and in good standing under the laws of the state in which you are organized, (c) the execution of this agreement is duly authorized, and each person executing the Agreement on behalf of you has the full authority, right and power to do so and to fully bind you, and such execution, delivery and performance does not violate any applicable law, (d) this agreement is your valid obligation and is enforceable against you in accordance with its terms, (d) your name is associated with the Utility Account, and (e) all information provided by you, including Utility and banking information, is accurate, true and complete in all respects.
- b. You shall provide to us on or prior to the Effective Date and annually thereafter through the Term of this Agreement, a copy of your most recent years financial statements and, if available, credit rating information.

Customer

By: _____

Name: _____

Date: _____

Provider

By: 

Name: Allan Telio

SVP of Community Solar

Date: _____



Community Distributed Generation Disclosure Form	
Customer Information	Customer Name: Timothy Degraff Company: Ulster County Resource Recovery Agency Email: tdeg@ucrra.org Phone: (845) 336-0600 Utility Provider: Central Hudson G&E
Distribution Utility	Utility Account: <u>See Schedule A</u> Billing Address: 999 Flatbush Road, Kingston, NY, 12401 Service Address (if different): <u>See Schedule A</u>
Overview	This document describes your community solar subscription. In the event that the terms in this statement conflict with terms appearing elsewhere in your contract, the terms in this statement are controlling. Read this document and the contract carefully so that you fully understand this agreement.
Price, Fees, and Charges	Cost to Enroll: \$0 Discount: 10% Each billing period, the price charged by Nexamp (the "Price") will equal the value of the bill credits allocated to your Utility Account, less your Discount. The Price of your subscription will be determined by the value of bill credits allocated to your Utility Account, but your Discount is fixed for the full term of your subscription.
Project Location and Customer Allocation	Project Location: Central Hudson G&E Utility Territory Project Size: 1,632 kW DC Anticipated Project Operation Date: 3/31/2022 If a Project with an earlier anticipated Project Operation Date becomes available, we may assign you to that Project and notify you in advance.
Length of Agreement and Renewal	Subscription Type: Pay-as-you-Go Subscription Term: Up to 25 years. If you need to cancel your subscription for any reason, you may do so at any time by following the guidelines below (under "Early Termination").
Early Termination	You may terminate your subscription, with no penalty, by providing Nexamp at least four (4) months prior written notice to the end of the term. Nexamp may terminate your subscription for failure to make timely payment or other violations under the contract. All amounts due and payable to Nexamp will survive any Early Termination.
Estimated Benefits	Your Utility Provider will distribute bill credits for the energy generated by your Subscription Size. Your savings will be equivalent to the value of bill credits multiplied by your Discount. Estimated Annual Energy for your Subscription Size: <u>See Schedule A</u> Bill Credit Type: Monetary Credits (based on Value Stack)
Guarantees	The energy generated by the Project will vary each month. This contract does not guarantee a minimum level of system performance or production of energy. Your Price will always reflect the Discount, but this contract does not guarantee savings on a monthly basis.
Data Sharing and Privacy Policy	Your subscription authorizes Nexamp to request and receive historical electricity consumption information from your Utility Provider, which will not be shared with third parties. Our privacy policy can be found online: https://www.nexamp.com/privacy-policy
Right to Cancel Without Penalty	You have the right to terminate the contract without penalty within three business days after signing the contract by notifying Provider at 1-800-945-5124 or solarize@nexamp.com.
Customer Rights	If you have inquiries or complaints that the Provider is unable to resolve, you have the right to call the Department of Public Service Helpline at 1-800-342-3377. You may file a complaint on the Helpline or by following the instructions at http://www.dps.ny.gov/complaints.html .
Other Important Terms	Your Subscription Size may be adjusted, as needed, to better reflect your annual electricity consumption expectations.
Preparer Name and Contact Information	Contact: Nexamp Community Solar Team Email: support@nexamp.com Phone: 1-800-945-5124 Address: 101 Summer St, 2 nd Floor, Boston, MA 02110

Signature of Authorized Company Official or Representative:  Date: _____

Signature of Customer: _____

Date: _____

Community Solar Three Year Subscription Agreement

Parties to this Agreement:

Provider*:

Nexamp, Inc.

Contact: Nexamp Community Solar Team

Email: support@nexamp.com

101 Summer St, 2nd Floor

Boston, MA 02110

Customer:

Company Name: Ulster County Resource Recovery Agency

Contact Name: Timothy Degraff

Email: tdeg@ucrra.org

Phone: (845) 336-0600

Mailing Address:

999 Flatbush Road,

Kingston, NY, 12401

Solar Project: The "Project" is a community solar project located within the following utility territory:

Meter Address (if different from Mailing Address)

See Schedule A

Utility: Central Hudson G&E

Utility Account number ("Account"):

See Schedule A

"Project Operation Date" is anticipated to be (or was): 3/31/2022

"Service Classification": See Schedule A

"Discount": Ten percent (10%)

"Subscription Size": See Schedule A

If the Project is not currently operational, we will notify you of the actual Project Operation Date which will be the date on which the Utility grants permission to operate the Project.

We may, per the terms of this Agreement, adjust your Subscription Size to better reflect your expected annual electricity consumption and will notify you of any such adjustment.

* Under this Agreement, Nexamp may be referred to as "Provider", "us", "we", or "our" and Customer may be referred to as "you" or "your".

Executing this Community Solar Subscription Agreement and the Community Distributed Generation Disclosure Form (collectively, the "Agreement"), allows Nexamp to direct your Utility to allocate monetary credits from a Nexamp project to your electric Utility bill. The dollar amount of the credit you receive will be based on your Subscription Size as a portion of the Project's electricity output (the "Credit"). In exchange for receiving this Credit on your Utility bill, you will pay us the Credit value less your Discount (the "Price"). For example, if your Subscription Size results in a Credit of \$100, you would receive a credit on your Utility bill of \$100 and you would owe Nexamp only \$90, which is a 10% savings to you.

In a given billing period, if your Subscription Size results in a Credit in excess of your Utility costs, such excess Credits will roll over to be applied towards future Utility costs; and, if your allocated Credit is less than your monthly electricity bill, you will owe the balance to the Utility.

In consideration of the mutual premises, representations, warranties, covenants and conditions herein, the Parties agree as follows.

1. **Term:** The term of this Agreement begins on the date you execute this Agreement (the "Effective Date") and will continue, unless terminated earlier pursuant to the terms herein, through the date upon which the transactions for the

final Credit delivery 3 years from the Project Operation Date are complete (the "Term"). Under this agreement, we will act as the "Sponsor" or "CDG Host", and you will act as the "Community Solar Subscriber" or "CDG Satellite." This contract will automatically renew for another 3 year term unless either Party provides written notice of cancellation at least 120 days prior to the end of the current Term. provided however, such renewal may in all events only extend through the 25th anniversary of the Project Operation Date.

2. **Early Termination:** This Agreement may be terminated prior to the end of the Term (the "Early Termination Date") by:
- a. You pursuant to Sections 8 or 9 of this Agreement;
 - b. Nexamp, upon notice to you (i) at any time prior to the actual Project Operation Date, if we determine that developing the Project no longer feasible, (ii) if community solar is no longer available for the Project, (iii) upon three (3) months prior written notice; (iv) upon your default of this Agreement.

Upon early termination under this Section 2, each Party shall perform all obligations due to the other Party that arose prior to the Early Termination Date (including any transactions for the final Credit delivery) after which, the Parties shall have no further obligations hereunder, except those which survive this Agreement's expiration or termination. You understand that, should excess Credits remain to be applied to your Utility Account at such a time when you terminate this Agreement, you may forfeit the entirety of such excess Credit as required by operation of Utility policies and applicable law.

3. **Sale and Purchase; Payment:**

- a. We will invoice you for the Price each Utility billing period, and you agree to pay the invoices within 30 days of the invoice date.
- b. You will automatically be enrolled into our electronic billing program, which features invoice notifications via email and online payment options including auto-payment, ACH, and credit/debit card storage. You can access our online customer portal and your electronic bills at cs.nexamp.com. At any time and without penalty to you, you may opt out of our online billing program or request paper invoices either via our portal or by written notice to us.

4. **Delivery; Change of Account; Acknowledgments:**

- a. To deliver the Credit to you, we will deliver the Project's electricity to the Utility at the Project meter as the electricity is produced, from the actual Project Operation Date through the Term.
- b. You understand:
 - i. that the Credit delivered to you in any particular billing period will be reflected on your Account statement according to the Utility's billing cycle.
 - ii. that the Utility will meter and record the Project's electricity production and will apply the Credit to your Utility Account according to our direction;
 - iii. the Utility will be solely responsible for calculating the value of the Credit applied to your Utility bill in accordance with applicable Utility tariffs and applicable law.
- c. You may change your Utility Account for Credit delivery by written notice to us, provided that your new account is in the same Utility territory as the existing Account or is otherwise approved by us. Our acceptance of the change is contingent on Utility's approval of the change. The last bill for the former account and first bill for the new account will depend on the Utility's tariffs and procedures for disenrolling and enrolling subscriptions.
- d. You agree that you will not change your Service Classification unless you have requested in writing and received our approval.

5. **Title:**

- a. As between the Parties, we will claim and receive any and all tax, environmental or other credits, grants, subsidies, renewable energy credits, carbon offset credits, rebates or other benefits related to the Project or its output, and any other benefits or profits of owning the Project (including any capital appreciation), both presently and in the future. You will NOT have the option to buy any equipment of the Project at any time during or at the end of the Term.
- b. This Section shall survive Agreement termination.

6. **Assignment:**
- a. We (including any successor or subsequent assignee) may assign, sell or transfer the Project and/or the rights and obligations under this Agreement to any person without your consent including making collateral assignments for security purposes, and you hereby consent to the assignment, sale, or transfer of the Project to any lender or financing party (including agents acting on their behalf) and the collateral assignment of our right, title and interest in and to this Agreement as security for any financing incurred by us or our affiliates.
 - b. You may not sell, transfer or assign this Agreement, either in whole or in part, or the Credits purchased under this Agreement, to anyone without our express written consent.
7. **Termination for Default.** You will be in default if you fail to make a monthly payment within 60 days of the invoice date, or if you breach, fail to perform or comply with any material covenant, representation or agreement herein set forth in this Agreement and such failure continues for a period of thirty (30) days after receipt of written notice thereof from us. If you are in default, we may terminate this Agreement and disenroll your subscription. If we terminate this Agreement, you may be charged the Price for Credits through the date your subscription with Utility has been disenrolled, plus an administrative fee (not to exceed \$250) for reasonable and documented costs paid by us to collect the amount owed by you. In addition, we may sell Credits to persons other than you and recover from you any loss in revenues. This Section shall not otherwise limit a Party's remedies at law or equity.
8. **Entire Agreement; Modifications in Writing; Survival:** This Agreement contains the Parties' entire agreement, and there are no other agreements between the Parties regarding the Project or the Credit, either written or oral. We reserve the right to amend your Subscription Size to better reflect your expected annual electricity consumption or to designate a replacement Project from time to time with 90 days notice, provided however, that you have a right to terminate this Agreement without penalty within 90 days of our sending such changes by contacting us. Any modification of this Agreement requires the written approval of both Parties. Any delay or failure of a Party to enforce the obligations of the other Party under this Agreement shall not constitute a waiver of such obligations or a Party's right to enforce the same and shall not affect the validity of this Agreement. If any non-material part of this Agreement is held to be unenforceable, the rest of the Agreement will continue in effect. If a material provision is determined to be unenforceable and the Party which would have been benefited by the provision does not waive its unenforceability, then the Parties shall negotiate in good faith to amend the Agreement to restore to the Party that was the beneficiary of such unenforceable provision the benefits of such provision. If the Parties are unable to agree upon an amendment that restores the Parties benefits, the matter shall be resolved by arbitration and an arbitrator may reform the Agreement as the arbitrator deems just and equitable in order to restore to the Party that was the beneficiary of the unenforceable provision the economic benefits of such provision.
9. **Change in Law:** Notwithstanding anything else in this Agreement, if there is a change in law that materially affects our ability to perform obligations under this Agreement or that materially reduces the value of the Credits, we may amend this Agreement as necessary within our discretion on 90 days notice and providing all changes to this Agreement to you. You have a right to terminate without penalty within 90 days of our sending amendments under this provision by contacting us. For the purposes of this section, a change in law is a change federal, regional, state, or local statute, regulation, or guidance, or any decision or interpretation of an agency of such a government (including a court), including but not limited to decisions or interpretations of the New York State Public Service Commission
10. **Governing Law:** This Agreement is governed by the law of the State of New York without giving effect to the principles of conflict of laws that would require the application of any other law.
11. **Notices:** All notices and other formal communications which either Party may give to the other under or in connection with this Agreement shall be in writing or to the email address provided by you, shall be deemed delivered five business days after it was mailed (except notice provided by email shall be deemed delivered when sent), and shall be sent by any of the following methods: first class mail; reputable overnight courier; certified mail, return receipt requested; or email transmission. The communications shall be sent to the Parties' addresses stated on page 1.
12. **Limitation of Liability and Warranty Disclaimer:** TO THE MAXIMUM EXTENT PERMITTED BY LAW

(A) EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY PUNITIVE DAMAGES OF ANY CHARACTER, RESULTING FROM, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY INCIDENT TO ANY ACT OR OMISSION OF EITHER PARTY RELATED TO THE PROVISIONS OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE (EXCEPT GROSS NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY AT LAW OR EQUITY; AND

(B) EXCEPT AS EXPRESSLY PROVIDED HEREIN, PROVIDER MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, REGARDING ITS OBLIGATIONS OR THE PROJECT. PROVIDER DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

13. **Indemnification:** TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTY AND ITS SUCCESSORS AND ASSIGNEES, AND ITS AND THEIR EMPLOYEES, OFFICERS, DIRECTORS AND AGENTS, FROM ANY AND ALL LOSSES, LIABILITIES, DAMAGES, CLAIMS, ACTIONS, COSTS, JUDGMENTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES), PENALTIES, DEMANDS AND LIENS ASSERTED BY OR RESULTING FROM CLAIMS, ACTIONS, SUITS OR DEMANDS BY ANY THIRD PARTY, OF ANY KIND OR NATURE ARISING OUT OF, CONNECTED WITH, RELATING TO OR RESULTING FROM SUCH PARTY'S FAILURE TO COMPLY WITH ANY OF THE TERMS OR CONDITIONS OF THIS AGREEMENT. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.
14. **Cooperation:** You agree to cooperate with us and the Utility as reasonably necessary to ensure this Agreement complies with community shared solar laws and regulations.
15. **Authorization to Receive Historical Consumption Information.** During the Term of this Agreement, you will need to provide your electric utility account information. This information is needed to determine the solar production required to offset your usage; we may under Section 8 of this Agreement propose a different subscription size during Term to reflect changes in your usage patterns.. You authorize Nexamp to request and review your historical electricity information from your local utility as long as you remain a customer under this Agreement. Your utility account information will not be shared with third parties. We reserve the right to update or adjust our utility data policy with notification if these changes impact you based on your contract or subscriber status. Our utility data policy can be found online at: <https://www.nexamp.com/privacy-policy>.
16. **Customer Status with Utility.** You hereby certify to us and permit us to confirm with the Utility that you are not already treated by the Utility as a net metered customer generator, a remote net metered host, or a CDG satellite account. You understand that your treatment under any of the foregoing will disqualify you from receiving Credits from us and shall permit us to immediately terminate this Agreement upon written notice.
17. **Customer's Rights:** You acknowledge that you are advised of your rights under New York's Home Energy Fair Practices Act (a summary of which can be found at http://www.dps.ny.gov/HEFPA_Brochure_12-08.pdf), and under the Uniform Business Practices for Distributed Energy Resources Suppliers (a summary of which can be found at <https://www.nyserda.ny.gov/-/media/A592A57FE72649FB88DD25E001CA803B.ashx>). You understand that if you have complaints about us or general questions, you may contact the Office of Consumer Services, New York State Public Service Commission, Empire State Plaza, Agency Building 3, Albany, NY 12223-1350, 1-800-342-3377.
18. **Press Releases.** Neither Party shall issue any press release or make any public statement or announcement of any kind or in any form related to the execution and existence of this Agreement, or the sale or purchase of Credits without the express written consent of the other Party.
19. **Customer Representations and Covenants.**
- a. You hereby represent and warrant to us that (a) you have read and understand the terms of this Agreement and have had the opportunity to ask questions of us and to seek the advice of an attorney, if desired, (b) you are

duly organized, validly existing and in good standing under the laws of the state in which you are organized, (c) the execution of this agreement is duly authorized, and each person executing the Agreement on behalf of you has the full authority, right and power to do so and to fully bind you, and such execution, delivery and performance does not violate any applicable law, (d) this agreement is your valid obligation and is enforceable against you in accordance with its terms, (d) your name is associated with the Utility Account, and (e) all information provided by you, including Utility and banking information, is accurate, true and complete in all respects.

- b. You shall provide to us on or prior to the Effective Date and annually thereafter through the Term of this Agreement, a copy of your most recent years financial statements and, if available, credit rating information.

Customer

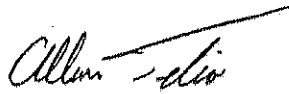
By: _____

Name: _____

Date: _____

Provider

By:



Name: Allan Telio

SVP of Community Solar

Date: _____

Schedule A: Ulster County Resource Recovery Agency

Account Name	Service Address	Service Class	Account Number	kW Allocation (DC)	kWh Allocation
Admin Electric	RT 32, Kingston, NY, 12401	SC2D	36100910003	46.0	53,997
UTS Electric	RT 32, Kingston, NY, 12401	SC2D	36100920002	93.5	109,754
Ulster Landfill	Miron LN Dump, Kingston, NY, 12401	SC2D	36140220009	50.5	59,279
NP Landfill	Clearwater Rd, New Paltz, NY, 12561	SC1	82460570003	24.0	28,172
NPTS	Clearwater Rd, New Paltz, NY, 12561	SC2D	86420070004	119.5	140,274
			Total	333.5	391,476