



CAPE HATTERAS ELECTRIC COOPERATIVE
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A Touchstone Energy® Cooperative 

**CAPE HATTERAS ELECTRIC COOPERATIVE
COMMUNITY SOLAR AGREEMENT**

This Community Solar Agreement (this “Agreement”) is made and entered into as of _____, 20____, by and between **Cape Hatteras Electric Cooperative (“Cape Hatteras Electric”)**, whose mailing address is Post Office Box 9, Buxton, North Carolina 27920, its successors and assigns, and the member identified as follows (“Member”), their heirs, successors, and assigns (hereinafter Cape Hatteras Electric and Member collectively referred to as “the Parties”):

Member Name:

Service Address:

City, State and Zip Code:

1. Community Solar Participation

1.1. Eligible Participants. The program is open to all Cape Hatteras Electric members as defined by Cape Hatteras Electric’s Service Rules and Regulations.

1.2. Amount Purchased

of panels _____ x 320 watts (DC) = _____ watts

Member hereby purchases and Cape Hatteras Electric agrees to provide to Member on its bills for the Service Address noted above (the “Service Address”), Production Credits allocated (as provided in Section 4) to a portion of the 57.6 kW (DC) of the capacity (“member’s Allocated Capacity) of the **Cape Hatteras Electric Solar Garden** located at 57238 NC HWY 12, Hatteras, NC (the “Solar Garden”). The Solar Facility is owned by Member EMC Solar Three, LLC (“Solar Garden Owner”).

Members may purchase up to 10 panels. The annual average output of each panel is estimated to produce approximately 475 kilowatt hours of electricity per year.

1.3 Environmental Attributes

Member acknowledges and agrees that Cape Hatteras Electric will acquire from Solar Garden Owner under a power purchase agreement all electric energy generated by the Solar Garden and Environmental Attributes associated with the Solar Garden. Member acknowledges that all Environmental Attributes associated with Solar Garden shall remain the property of Cape Hatteras Electric and Member agrees not to make any statement contrary to such ownership by Cape Hatteras Electric.

“Environmental Attributes” means any all rights, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the environmental or renewable characteristics or attributes of the Solar Garden or the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water, which are deemed of value by **Cape Hatteras Electric**, in each case now or hereafter created or recognized by any governmental authority or independent certification association or entity generally recognized in the electric power generation industry and generated by or associated with the Solar Garden, including without limitation any renewable energy credits or similar rights arising under North Carolina’s Renewable Portfolio Standard, any federal or other state renewable portfolio standard, the Center for Resource Solutions’ Green-e program and any credits, offsets or similar government-mandated carbon trading program. Environmental Attributes also include but are not limited to: (a) any avoided emissions of pollutants to the air, soil, or water such as (subject to the foregoing) sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO), and other pollutants; and (b) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere.

2. **Consideration.** As consideration for Member’s right to receive Production Credits pursuant to this Agreement, the Member has paid to **Cape Hatteras Electric** the sum of \$_____ per 320 watts (DC) of Member’s Allocated Capacity, upon execution of this Agreement (the “Allocated Capacity Fee”).

3. **Term.** This Agreement shall be effective on the in-service date for the Solar Garden or beginning on the date of this agreement and will continue _____ years (the “Term”) subject to early termination as provided in this Agreement.

4. **Solar Energy Credit.** During the Term, Member will receive a Production Credit (calculated as provided below) for Member’s Allocated Capacity as a credit on the monthly invoices for electric service provided by Cape Hatteras Electric to the Service Address.

4.1. The Production Credit (PC) for Member’s Allocated Capacity (MAC) applied to each monthly invoice will be determined as follows:

Monthly Billing Credit (See Exhibit A) x Number of Panels Purchased

4.2. A true-up of the previous year’s kWh production will be applied to the Member’s electric bill based on the following calculation:

(Actual Total kWh Produced (Previous Year) ÷ 180 (total number of panels) minus Estimated Annual kWh per panel (Previous Year)) x (the cooperative's avoided cost rate) x number of panels purchased

4.3. Member agrees that Cape Hatteras Electric's sole obligation with respect to payments to Member shall be to apply Production Credits as a credit on the Member's electric bill provided by Cape Hatteras Electric to the Service Address, according to the conditions of this Agreement. Cape Hatteras Electric shall not have an obligation to pay cash or other consideration for accumulated, unused Production Credits except as provided herein.

4.4. Production Credits will expire if not used in the twelve month period from April 1 to March 30 during the term of this Agreement beginning after the first full year of production.

5. Repurchase or Resale

5.1. **Cape Hatteras Electric Repurchase** – At **Cape Hatteras Electric's** sole discretion, **Cape Hatteras Electric** may, at any time and from time to time, elect to repurchase all or any portion of Member's Allocated Capacity and the associated rights to receive Production Credits, and Member is obligated to Sell such Allocated Capacity and associated rights to **Cape Hatteras Electric** pursuant to the terms of this Section 5. Such repurchase will occur as follows:

5.1.1. **Cape Hatteras Electric** will notify Member of **Cape Hatteras Electric's** election to exercise its repurchase right and the kW amount of Member's Allocated Capacity and associated rights to receive Production Credits being repurchased (the "Repurchase Notice").

5.1.2. The repurchase price for the Member's Allocated Capacity associated with each Production Unit will be equal to the amount set forth in Exhibit B. hereto.

5.1.3. **Cape Hatteras Electric** will repurchase the kW amount of Member's Allocated Capacity identified in the Repurchase Notice within 30 days after sending such Repurchase Notice by sending payment to the Member in an amount equal to the sum of (a) the repurchase price as calculated in 5.1.2 plus (b) any earned Production Credits with respect to the amount of kW of Member's Allocated Capacity being repurchased not yet credited to the invoice for the Service Address. On receipt by Member of the payment provided in this Section 5.1.3, (i) Member's right to receive Production Credits with respect to the amount of kW of Member's Allocated Capacity so repurchased will terminate, and (ii) **Cape Hatteras Electric** will have no further obligation to Member with regard to such Production Credits.

5.1.4. **Cape Hatteras Electric** reserves the right to repurchase a portion or all of the Member's allocated capacity if at any time during this Agreement the Member does not meet the requirements of Section 1.1 of this Agreement. The amount paid to the Member by Cape Hatteras Electric in the event of repurchase shall be equal to the amount set forth in Exhibit B. attached hereto, which corresponds to the year during

this Agreement when Cape Hatteras Electric elects to repurchase, minus any outstanding balance on the Member's electric account with Cape Hatteras Electric to which credits applied under this Agreement before repurchase.

5.2. **Resale.** At Member's sole discretion, Member may, at any time and from time to time, elect to re-sell all of Member's Allocated Capacity and the associated rights to receive Production Credits to Cape Hatteras Electric, and Cape Hatteras Electric is obligated to purchase such Allocated Capacity and associated rights from Member pursuant to the terms of this Section. Such re-sale will occur as follows:

5.2.1. Member will notify Cape Hatteras Electric of Member's election to exercise its re-sale right and the kW amount of Member's Allocated Capacity and associated rights to receive Production Credits being re-sold (the "Resale Notice").

5.2.2. The re-sale price for the Member's Allocated Capacity associated with each Production Unit will be equal to the amount set forth on Exhibit B hereto.

5.2.3. Cape Hatteras Electric will repurchase the Member's Allocated Capacity associated with the Production Units identified in the Resale Notice within 30 days after receiving such Resale Notice by sending payment to Member in an amount equal to the sum of (x) the re-sale price as calculated in clause (ii), plus (y) an earned Production Credits with respect to the amount of Production Units being repurchased not yet credited to the electric bill for the Service Address. On receipt by Member of the payment provided in this Section 5.2.3., Member's right to receive Production Credits with respect to the Production Units so re-sold will terminate, and Cape Hatteras Electric will have no further obligation to Member with regard to such Production Credits.

This Agreement will terminate upon repurchase by Cape Hatteras Electric of all of Member's Allocated Capacity and associated rights to receive Production Credits pursuant to 5.1 and 5.2.

6. **Transfer/Assignment.** Member may request that **Cape Hatteras Electric:** (a) permit Member to change the Service Address for which the Production Credits will apply to another Service Address within **Cape Hatteras Electric's** electric service territory for which Member is obligated to pay **Cape Hatteras Electric** for electric service and meets all requirements in 1.1, or (b) permit Member to assign this Agreement to another individual or entity provided such assignee's Service Address is located within **Cape Hatteras Electric's** electric service territory and meets all requirements in 1.1. Member must notify **Cape Hatteras Electric** of such proposed change or assignment in writing at least 30 days prior to the proposed effective date of such change or assignment, which notice must include:

- 1) Member's name and mailing address;
- 2) The current Service Address;
- 3) The new Service Address (if applicable);
- 4) The name of the individual or entity to whom Member is requesting assign this Agreement (if applicable) and the consideration (if any) proposed to be provided to Member for such assignment; and

5) The proposed effective date of such proposed change or assignment.

Cape Hatteras Electric may, in connection with its consideration of such a request, elect, in its sole discretion, to repurchase all or any portion of Member's Allocated Capacity and associated rights to receive Production Credits as provided in Section 5.

The value of any consideration to be provided to Member for assignment if this agreement may not exceed the purchase price that would apply if **Cape Hatteras Electric** were repurchasing Member's Allocated Capacity and related rights to receive Production Credits as determined under Section 4.

Cape Hatteras Electric's determination as to whether all or any portion of Member's Allocated Capacity and associated rights to receive Solar Energy Production Credits or consent to any proposed change of Service Address or assignment of this Agreement shall be made in accordance with the then current Solar Garden policies as established by **Cape Hatteras Electric's** Board of Directors from time to time.

Upon assignment of this Agreement pursuant to this Section 6, the Member will surrender all right, title and interest in and to this Agreement. No assignment will extend beyond the Term of this Agreement.

Except as provided in this Section 6, Member may not assign, gift, bequeath or otherwise transfer any of its rights or obligations under this Agreement to any other individual or entity for any purpose, including without limitation as security for any debt obligation. Any attempted assignment in violation of this Section 6 shall be null and void.

7. **Additional Agreements.** The parties further acknowledge and agree that:

7.1. Member will not have access to the Solar Garden for any purpose. Member will have no ownership, possession right or control of the Solar Garden, and will have no rights or obligations with respect to the maintenance or operation of the Solar Garden. This Agreement does not convey to Member any right, title or interest in or to any portion of any property (tangible or intangible, real or personal) underlying or comprising any portion of the Solar Garden.

7.2. ALL WARRANTIES RELATING TO THE CAPE HATTERAS ELECTRIC SOLAR GARDEN, ITS EQUIPMENT, PERFORMANCE, AND OUTPUT OF CAPACITY OF ANY KIND WHATSOEVER, EXPRESS, IMPLIED AND STATUTORY, ARE HEREBY DISCLAIMED. ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED.

7.3. Nothing in this Agreement shall be deemed to alter or modify any rate, charge, term or condition of the electric service provided by **Cape Hatteras Electric** to Member or to modify in any way Member's rights and obligations as a member of **Cape Hatteras Electric**. All of **Cape Hatteras Electric's** rates, charges, terms and conditions of electric service shall remain

subject to change in accordance with applicable law, as well as Cape Hatteras Electric's policies and bylaws at any time.

7.4. **Force Majeure.** Because the Member is purchasing capacity credits based on actual electric energy production from the Cape Hatteras Electric Solar Garden, interruptions due to a Force Majeure that affect the actual electric energy production of the Cape Hatteras Electric Solar Garden is not a breach of Cape Hatteras Electric's duty under this Agreement of performance as agreed herein has been made impracticable by a Force Majeure. "Force Majeure" shall mean any act, event, or circumstance that is not reasonably within the control of Cape Hatteras Electric that prevents or delays in whole or in part Cape Hatteras Electric's performance of any one or more of its obligations under this Agreement, including, but not limited to any fire, flood, storm, hurricane, tornado, earthquake or other natural disaster or weather event; acts of war (declared or undeclared), sabotage, terrorism or threat thereof, civil disturbances, or strike. In the event of Force Majeure, Cape Hatteras Electric is under no obligation to continue paying the Member capacity credits and/or secure an alternative source of solar electric generation to offset the lost production from the Cape Hatteras Electric Solar Garden, until such time as the detrimental effects upon the Cape Hatteras Electric Solar Garden caused by the Force Majeure event can be repaired or remedied by Cape Hatteras Electric.

8. **Notices.** All notices, requests, consents, and other communications to a party under this Agreement must be in writing, delivered to the mailing address for such party stated above, and will be deemed delivered upon the earlier of (a) three business days after being deposited on certified or registered mail, return receipt requested postage prepaid, or (b) the following business day after being delivered to a reputable overnight courier service.

9. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous proposals, whether oral or written, negotiations, representations, commitments, writings and all other communications between the parties. This Agreement may not be released, discharged, or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

10. **Governing Law/Jurisdiction/Venue.** This Agreement shall be deemed to have been made in, and shall be construed under, the laws of the state of North Carolina, without regard that a court of competent jurisdiction located in Dare County, North Carolina shall have exclusive jurisdiction in any action or proceeding arising under or relating to this Agreement.

11. **Severability.** If any provision of this Agreement is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and be inoperative, and, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, the remainder of this Agreement shall remain operative and binding on the Parties.

IN WITNESS WHEREFOR, the parties have executed this Agreement as of the date first written above.

Cape Hatteras Electric Cooperative

By: _____

Name: _____

Title: _____

Member

By: _____

Name: _____

Mailing Address: _____

OFFICE USE ONLY

Number of Panels _____ x \$616.50 = _____

Payment Method: _____

Account #: _____

EXHIBIT A

Year	Estimated Annual kWh per Panel	Avoided Cost Rate*	Monthly Bill Credit**	Plus or Minus True Up***
2016	490	\$ 0.06014	\$ (2.45)	
2017	490	\$ 0.06014	\$ (2.44)	\$.23
2018	490	\$ 0.06014	\$ (2.44)	
2019	480	\$ 0.06014	\$ (2.43)	
2020	480	\$ 0.06014	\$ (2.42)	
2021	480	\$ 0.06014	\$ (2.41)	
2022	480	\$ 0.06014	\$ (2.41)	
2023	480	\$ 0.06014	\$ (2.40)	
2024	480	\$ 0.06014	\$ (2.39)	
2025	480	\$ 0.06014	\$ (2.39)	
2026	470	\$ 0.06014	\$ (2.38)	
2027	470	\$ 0.06014	\$ (2.37)	
2028	470	\$ 0.06014	\$ (2.36)	
2029	470	\$ 0.06014	\$ (2.36)	
2030	470	\$ 0.06014	\$ (2.35)	
2031	470	\$ 0.06014	\$ (2.34)	
2032	470	\$ 0.06014	\$ (2.34)	
2033	460	\$ 0.06014	\$ (2.33)	
2034	460	\$ 0.06014	\$ (2.32)	
2035	460	\$ 0.06014	\$ (2.31)	

*Per kWh

**Per
Panel
Purchased

***See
Section 4.2
of the
Community
Solar
Agreement

EXHIBIT B

CAPE HATTERAS ELECTRIC REPURCHASE PRICE

CONTRACT YEAR PRICE PER PANEL

Reprice or Re-Sale

Year	Price
Purchase	\$ 685.00
2016	\$ 650.75
2017	\$ 616.50
2018	\$ 582.25
2019	\$ 548.00
2020	\$ 513.75
2021	\$ 479.50
2022	\$ 445.25
2023	\$ 411.00
2024	\$ 376.75
2025	\$ 342.50
2026	\$ 308.25
2027	\$ 274.00
2028	\$ 239.75
2029	\$ 205.50
2030	\$ 171.25
2031	\$ 137.00
2032	\$ 102.75
2033	\$ 68.50
2034	\$ 34.25
2035	\$ 0.00