

## RESOLUTION 25-022

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**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE SANIBEL FIRE AND RESCUE DISTRICT AUTHORIZING THE FIRE CHIEF TO EXECUTE AND ENTER INTO AN AGREEMENT WITH AMERESCO, INC. FOR THE PURCHASE AND INSTALLATION OF A SOLAR SYSTEM AT FIRE STATION 172; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Sanibel Fire and Rescue District (“District”) continues its commitment to sustainability, energy efficiency, and long-term cost savings in District facilities; and

**WHEREAS**, the District has received a proposal dated November 6, 2025, from Ameresco, Inc. for the design, engineering, and installation of a 25.3 kWdc Solar System at Fire Station 172, 5171 Sanibel Captiva Road, Sanibel, Florida; and

**WHEREAS**, the total project cost is \$110,061, as outlined in the Ameresco proposal, which includes design, procurement, installation, commissioning, and permitting; and

**WHEREAS**, pursuant to District procurement policy, the District may utilize sole-source procurement when the vendor has been previously awarded a competitively solicited public contract that satisfies competitive bidding requirements; and

**WHEREAS**, the Board of Commissioners has determined that entering into this agreement with Ameresco, Inc. serves the best interests of the District and its taxpayers by reducing operating costs and promoting environmentally responsible operations.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE SANIBEL FIRE AND RESCUE DISTRICT THAT:**

**Section 1.** The Fire Chief is hereby authorized to execute and enter into an agreement with Ameresco, Inc., in an amount not to exceed **\$110,061**, for the purchase and installation of a Solar Photovoltaic System at Fire Station 172 as outlined in the proposal dated November 6, 2025.

**Section 2.** All actions undertaken by District staff in connection with this project are hereby ratified and approved.

**Section 3.** This Resolution shall take effect immediately upon its adoption.

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Commissioner MUENCH, who moved for its adoption, offered the foregoing resolution. The motion was seconded by Commissioner McCurry, and upon being put to a vote, the vote was as follows:

JERROLD MUENCH: ✓ Aye  
BRUCE COCHRANE: ✓ Aye  
RICHARD MCCURRY: ✓ Aye

Done and adopted by the SANIBEL FIRE AND RESCUE DISTRICT BOARD this 12th day of November, 2025.

Jerrold Muench

Chairman, "Jerry" Jerrold Muench

Bruce Cochran

Vice Chairman, Bruce Cochran

Richard P. McCurry

Secretary/Treasurer, Richard McCurry

K. Barbot, Fire Chief

Attest, Fire Chief Kevin Barbot



# Proposal

November 11, 2025

## Project: Solar Photovoltaic System Station 172

To: Sanibel Fire and Rescue District

This letter ("Agreement") outlines the scope of work, fees, and terms and conditions associated with the Solar Photovoltaic System project at Sanibel Fire and Rescue Station 172 5171 Sanibel Captiva Rd. Sanibel, FL ("Client"). The objective of this Agreement is to provide the Client with a turn-key solution to install a solar array as described in the scope of work below. The overall project cost is \$107,561.

### Procurement

It is the intent of the CLIENT to procure the goods and services through Ameresco's publicly procured, competitively solicited contract with Equalis Group.

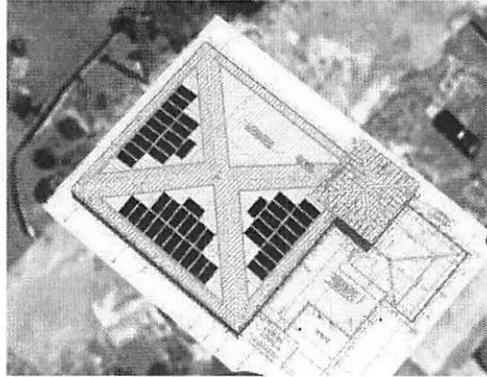
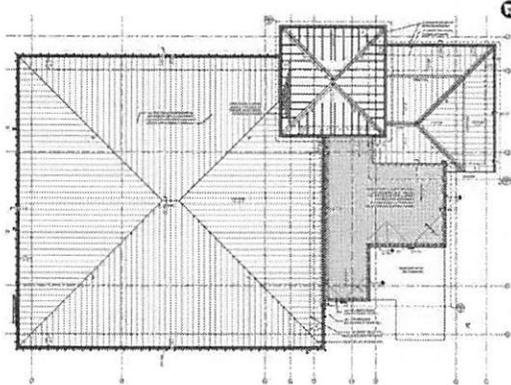
### Scope of Work

Ameresco is pleased to present the following proposal for your consideration. Ameresco will design, furnish, and install the following:

- **25.3 kWdc** of solar PV systems at Sanibel Fire Station 171. The System will be metered at the appropriate points of interconnection on the building located at 2351 Palm Ridge Rd (Station #171 - ~45.1 kWdc) in Sanibel, FL.
  - **Major Equipment:**
    - Longi 550W Modules or Tier-1 Equivalent as Available
    - Inverters & Smart RSDs or Tier-1 Equivalent
    - Racking and mounting hardware.
    - Wire, conduit, and all other electrical components required for system operations
    - Generation Data Online Monitoring System
- Ameresco recommends client engage with third-party tax advisor to file tax credit applications. Ameresco will provide all technical details necessary to support client's application.

Final system designs are subject to facility load calculations, local regulations, and utility interconnection feedback. Engineering drawings sealed by an authorized engineer, licensed in the State of Florida and suitable for inclusion in the permit approval submission to the authority having jurisdiction will be provided if this proposal is accepted.

**5171 Sanibel Captiva Rd.**



**Detailed Scope of Work**

1) Design/Engineering

- a) Ameresco will provide engineering documentation in accordance with this Agreement in PDF format.
- b) Ameresco will design the System in accordance with this Agreement.
- c) Upon receipt of as-built or structural drawings of building, Ameresco will complete final structural analysis of solar equipment.
- d) Ameresco will design the System in accordance with Legal Requirements and all Utility requirements.
- e) Ameresco will complete all reasonable designs and engineering required by the Utility to achieve normal interconnection and energization.
- f) Ameresco will provide all necessary solar cost breakdowns needed for Client to utilize to file for federal Solar Investment Direct Pay Tax Credit and similar programs.

2) Permitting

- g) Ameresco is responsible for securing and closing out all Permits associated to Ameresco Scope of work as defined in Exhibit A.
- h) Ameresco will fulfill any and all town and or fire department requirements for Work permitting and Work approval for building and electrical permits, including site preparation work up to \$2,500 total. This amount is included in the Proposed Price set forth in Exhibit D.

3) Utility Interconnection

- i) Ameresco requires the system to be interconnected at 208V via dedicated breaker (or line-side bus tap pending Ameresco approval) into the buildings' existing switchgear assembly.
- j) Ameresco shall be responsible for all electrical materials, equipment and other design on the customer side of the "point of common coupling", excluding all switchgear or service upgrades necessary for line-side tap or dedicated breaker interconnection, interconnection equipment, installation, and related costs. Ameresco is not responsible for any additional equipment or grid-upgrades and is not responsible for any costs relating to delays resulting from Utility review processes.

- k) Fees for any Utility grid upgrades or utility shut down for a system tie in are not included in the Contract Sum. Nonperformance of the Utility is not the responsibility of Ameresco and any delays by the Utility will be addressed by Client.
- l) Up to two shutdowns at each facility are included throughout the course of the Work: i) the exploratory shutdown and; ii) the interconnection shutdown. During both the exploratory and interconnection shutdowns, generators for backup power will not be included. The exploratory shutdown is included to confirm the feasibility of the physical interconnection and will be scheduled by Ameresco in coordination with the Client. The interconnection shutdown will be scheduled by Ameresco in coordination with the Client.
- m) Ameresco shall be responsible for submitting an emergency response plan & site access plan, if required by Governmental Authorities.
- n) Ameresco will coordinate with the Utility and Client for the Utility's witness test.

#### 4) Procurement

- a) Unless otherwise excluded herein, Ameresco will procure all required equipment and materials, including but not limited to, AC and DC wiring, DC junction boxes, AC and DC disconnects, AC panelboards, conduit, Data acquisition system (DAS), concrete, module mounting system and all other components, parts, products, equipment and materials necessary to complete the construction of the System in accordance with all applicable specifications and the other requirements of this Agreement.

#### 5) Construction Management

- a) During on-site activity Ameresco will prepare and deliver to Customer reports regarding design and/or construction status on a bi-weekly basis and will keep Client informed throughout the process of the Services and the Work.
- b) At a minimum, Ameresco will be available for bi-weekly conference calls with CLIENT to discuss Work status and to coordinate performance of Scope of Work.
- c) Ameresco or its representatives will have a designated general superintendent/safety activity coordinator.
- d) Ameresco will have a general superintendent or representative responsible for the construction oversight, employed by Ameresco or its Subcontractors.

#### 6) Construction

- a) Ameresco will construct the System in accordance with the Authorized Ameresco engineer guidelines and pursuant to all other requirements of this Agreement and the other Contract Documents.
- b) Ameresco or its agents will assemble, construct and install, with its own labor resources and/or Subcontractors, the following hardware and materials to include, but not limited to photovoltaic modules, AC and DC wiring, DC junction boxes, AC and DC disconnects, inverter(s), combiner boxes, conduit, electrical switchgear as needed, data acquisition system as needed, revenue grade meter(s), module mounting system and all other components, parts, products and materials to complete the construction of the System.
- c) Ameresco shall clear array area of any trash and debris. The cost and liability of removing any Hazardous Substances not introduced by Ameresco or Ameresco's Subcontractors from the Site is excluded.
- d) Any concrete poured on-site shall be allowed to cure for the minimum amount of time necessary for it to reach its required strength before equipment is placed upon it.

#### 7) Execution

- a) Equipment will be shipped directly to dedicated and safe site area identified by Client. Ameresco will coordinate with Client when major shipments are planned, or any other activities that might impact the Client's operations.
  - b) If required by the Governmental Authorities or Utility, Ameresco will work with switchgear manufacturer to keep UL certification in place for supply side connections.
  - c) Ameresco will be responsible for coordinating and hosting Site inspections & meetings by Governmental Authorities and the Utility. Ameresco will notify Client of progress that requires Client's inspection engineers and independent engineers.
  - d) Authorized and trained technical personnel will be used for the commissioning and or startup of the inverters, and monitoring system.
  - e) All mechanical and electrical connections will be torqued per manufacturer's and / or engineer of record's guidelines. Ameresco shall check for loose wires and conduit, door seals, fuses. All mechanical and AC electrical connections will be torque marked.
- 8) Completion
- a) Ameresco will manage the commissioning of the System in accordance with industry standard practices.
  - b) Ameresco will provide the System Operations & Maintenance Manual with maintenance protocols based on manufacturers' recommendations and requirements to ensure manufacturers' warranties remain intact at Final Completion.
  - c) Ameresco will train Client's designee in the System operation and emergency procedures as well as standard inverter shut down and restart procedures, each of which shall be documented in writing with copies for the Client.

**Exclusions & Clarifications:**

1. Excludes tax.
2. Work excludes any Performance Bond.
3. Work excludes any Cost-Segregation or Tax Consultant Services.
4. Excludes asbestos abatement or additional roof repair.
5. Utilities: All final utility capacity and sizing confirmed and supplied by others.
6. Durations are subject to change based on readiness of trades and site conditions excluded by this contract. This includes performance of any work being installed by Client's selected roofing contractors before the solar array installations (mechanical and electrical) can be completed.
7. Durations subject to change based on timing of contract signature and material lead times outside of the control of Ameresco, Inc. This may include material procurement and/or availability of labor.
8. Durations subject to change based on reviews of AHJ and Utility Interconnection Review.
9. Excludes costs due to changes to system design required by Utility as part of interconnection approval process.
10. All labor, unless otherwise specified, is assumed to be first shift weekday work.
11. This scope of work does not include any on-site or off-site storage of equipment. 10% of Material will be shipped to Client's facility as soon as available, and remainder of equipment will be shipped to Client's facility up to 8 weeks ahead of installation mobilization, and it will be Client's sole responsibility to store material securely per manufacturer guidelines and requirements for the duration of the Work.

**Schedule**

For this Work, there will be 5 major phases: (i) Final Design Engineering (6-10 weeks following final utility interconnection greenlight); (ii) Material Procurement (8-32 weeks); (iii) Material Installation (3-6 weeks); (iv) Start Up/Commissioning (2-4 weeks); and (v) Work Closeout (TBD from local utility and offices).

Estimated Work Schedule

- Final Professional Services Schedule to be provided by Ameresco before on-site solar installation begins.
  - Execution of the contract: TBD
  - Electrical and Structural engineering for Interconnection Application and Permitting: 6-10 weeks
    - Feedback from Utility may modify and/or delay design.
    - Several design iterations based on feedback from utility normal and to be expected.
  - Preliminary Material Procurement: 8-32 weeks
    - Based on general material availability and procurement timelines out of the control of Ameresco
  - Estimated Interconnection timeline with Utility: Typically, 6-10 weeks from final application.
  - Construction: 3-6 weeks per Building
  - Commissioning, testing, inspections: 2-4 weeks
  - Substantial Completion/Permission to Operate: TBD from Utility
  - System Performance Commissioning, Pre-Application Support, & Closeout: 3-6 Weeks.
- Client files ITC Application by deadline following system being placed into service. \*Work assumes first shift non-holiday business day installation.

**Cost Breakdown**

|   |                |
|---|----------------|
| <b>Total Contract Value</b>   | <b>110,061</b> |
| Contract Execution/Design Mobilization (15%)                            | \$16,509       |
| Interconnection Application & Final Major Material Identification (40%) | \$44,024       |
| Installation Mobilization Building#1 – TBD Per Schedule (7.5%)          | \$8,255        |
| Installation Mobilization Building #2 – TBD (7.5%)                      | \$8,255        |
| Upon Mechanical Completion Building #1 (20%)                            | \$22,012       |
|   |                |
| Upon Substantial Completion Building #1 – TBD Per Schedule (5%)         | \$5,503        |
|   |                |
| Final Completion (5%)   | \$3,003        |



Sincerely,  
Sam Troyer  
Account Executive

\*\*\* This price is valid until Nov. 31, 2025 \*\*\*

**Intent to Proceed**

Sanibel Fire and Rescue District

Ameresco, Inc.

Name: KEVIN BARLOT

Name: \_\_\_\_\_

Date: 11/12/25

Date: \_\_\_\_\_

Signature: [Handwritten Signature]

Signature: \_\_\_\_\_

**Article 1**—These Terms and Conditions are incorporated into the Agreement between the Parties (collectively, the “Agreement”). CLIENT engages AMERESCO and AMERESCO accepts the engagement to perform the scope of work described in this Agreement and any attachments (the “Work”). AMERESCO will provide the design, procurement, construction supervision, inspection, labor, materials, tools, equipment, and other items necessary and reasonably inferable for the completion of the Work, and will substantially complete the Work by the date set forth in the Agreement (the “Contract Time”).

#### **Article 2 - AMERESCO's Responsibilities**

**2.1** AMERESCO will procure drawings, specifications, and other documents necessary to perform the Work and will pay for and secure any and all necessary permits, fees, licenses, and inspections by government agencies necessary for the Work. CLIENT will assist in securing such permits, fees, licenses, and inspections. All reports and drawings prepared for and deliverable to CLIENT under this Agreement (“Deliverables”) become CLIENT’s property upon full payment to AMERESCO. AMERESCO may retain file copies of such Deliverables. All other reports, notes, calculations, data, drawings, estimates, specifications, manuals, other documents, and all computer programs, codes, and computerized materials prepared by or for AMERESCO (“Instruments”) remain AMERESCO’s property. Upon execution of this Agreement, AMERESCO grants CLIENT a non-exclusive license to retain, use and make copies, of AMERESCO’s Instruments in connection with the CLIENT’s use and occupancy of the Project, provided that the CLIENT has paid to AMERESCO all amounts due and payable as of the date of AMERESCO’s cessation of performance.

**2.2** AMERESCO is not responsible for the maintenance, repair, or replacement of non-maintainable, non-replaceable, or obsolete parts of equipment already existing at the Facilities. Unless expressly agreed in writing, AMERESCO is not responsible for the removal or reinstallation of replacement valves, dampers, or waterflow and tamper switches with respect to pipes and ductwork, including vent or drain system. AMERESCO assumes no responsibility for any service performed on any equipment other than by AMERESCO or its agents.

**2.3** At its option, AMERESCO may subcontract some or all of the Work or Services, but no contractual relationship will exist between CLIENT and any subcontractor. AMERESCO is responsible for the management of its subcontractors in their performance of their work.

#### **Article 3 - CLIENT's Responsibilities**

**3.1** CLIENT, without cost to AMERESCO, shall (a) provide or arrange for, upon reasonable notice, access and make all reasonable provisions for AMERESCO to enter any site where Work is to be performed (the “Site”); (b) permit AMERESCO to control and operate all building controls, systems, apparatus, equipment and machinery necessary to perform the Work; (c) furnish AMERESCO with blueprints, surveys, legal descriptions, waste management plans and all other information pertinent to the Work and any Site where the Work is to be performed that are known to be existing and available to CLIENT; (d) cooperate with AMERESCO in obtaining permits and consents from government authorities and others as may be required by AMERESCO for performance of the Work so as not to affect the timelines set forth in this Agreement; (e) notify AMERESCO promptly of all known or suspected hazardous materials, asbestos or mold at the Site and any other conditions requiring special care; (f) provide AMERESCO with legally required materials and information (including but not limited to Material Safety Data Sheets) related to all hazardous materials located at any Site where the Work is to be performed; (g) furnish AMERESCO with any contingency plans, safety programs and other policies, plans or programs related to any Site where the Work is to be performed; (h) operate, service and maintain all equipment according to the manufacturer’s recommendations including those set forth in the manufacturer’s operating manuals or instructions, as well as all requirements of applicable law or of authorities having jurisdiction; and (i) promptly notify AMERESCO of all unusual or materially changed operating conditions, hours of usage, system malfunctions, installed equipment or building alterations that may affect the equipment or energy usage or any Services.

**3.2** Customer acknowledges that the technical information contained in this Agreement is confidential and proprietary to AMERESCO and agrees not to disclose it or otherwise make it available to others without AMERESCO’s express written consent. This imposes no obligation upon CLIENT with respect to confidential information that: (a) the CLIENT can demonstrate was already in the CLIENT’s actual possession or knowledge and which CLIENT lawfully acquired other than from PLUG SMART/AMERESCO was; (b) is or becomes publicly available through no fault, action, omission or intervention of CLIENT; (c) is received by CLIENT from a third party without a duty of confidentiality (express or implied) owed to PLUG SMART/AMERESCO; (d) is independently developed by CLIENT without a breach of this Agreement; (e) is disclosed by CLIENT with the PLUG SMART/AMERESCO’s prior written approval; or (f) is required to be disclosed by operation of law, court order or other governmental demand. Notwithstanding the foregoing, AMERESCO hereby acknowledges and agrees that the Ohio Public Records Act, Ohio R.C. 149.43 et seq., applies to many of Customer’s records, including final and draft contracts, payment information, internal and external memoranda, emails and other communications, and that Customer is obligated to produce such records when requested by the public. If Customer receives a public records request, subpoena, or other lawful order related to information which is confidential pursuant to this Agreement, then Customer will provide AMERESCO ten (10) days’ prior notice (“Notice Period”) before releasing any records to afford AMERESCO an opportunity to prevent the disclosure of its Confidential Information. Notwithstanding anything to the contrary in this Agreement, AMERESCO hereby agrees that Customer may deliver such notice via email or other electronic means. If AMERESCO fails to pursue protective legal action within the Notice Period, then Customer will disclose the requested information, and such disclosure will not constitute a breach of this Agreement or damage to AMERESCO, or liability of any kind for Customer. AMERESCO acknowledges and agrees that (a) Customer has sole discretion in determining whether a record is a “public record” under the applicable law; (b) Customer is under no obligation to redact any document on behalf of the AMERESCO or to determine whether any of AMERESCO’s Confidential Information qualifies for an exemption under applicable law; and (c) AMERESCO shall bear all costs associated with pursuing any protective legal action to prevent the disclosure of its Confidential Information. AMERESCO hereby authorizes Customer to disclose copies of this Agreement in response to any valid request made under applicable law.

#### **Article 4 - Changes and Delays**

**4.1** As the Work is performed, conditions may change or circumstances outside AMERESCO’s reasonable control (including changes of law) may develop which would require AMERESCO to expend additional costs, effort or time to complete the Work, in which case AMERESCO will submit a request for an equitable adjustment in the Contract Price, the Contract Time, or in both.

**4.2** If conditions are encountered at the jobsite that are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Agreement, or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in this Agreement, then written notice by AMERESCO shall be given to CLIENT promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. If requested, an equitable adjustment to Contract Price and Contract Time shall be made by a change order. If agreement cannot be reached by the Parties within 10 days, AMERESCO may assert a claim for an equitable adjustment in the Contract Price or Contract Time or both. Failure to properly submit written notice of such conditions within the time required represents an irrevocable waiver of AMERESCO’s right to assert a claim for an increase in the Contract Price or Contract Time.

**4.3** AMERESCO shall not be responsible for loss, delay, injury, damage or failure of performance that may be caused by circumstances beyond its control, including but not restricted to acts or omissions by Customer or its employees, agents or contractors, Acts of God, war, civil commotion, acts or omissions of government authorities, fire, theft, corrosion, flood, water damage, lightning, freeze-ups, strikes, lockouts, differences with workmen, riots, explosions, quarantine restrictions, delays in transportation, or shortage of vehicles, fuel, labor or materials. In the event of such delay or failure, the time for performance

shall be extended by a period equal to the time lost plus a reasonable recovery period and the compensation shall be equitably adjusted for additional costs AMERESCO incurs due to such delay.

#### **Article 5 – Compensation**

5.1 CLIENT shall pay AMERESCO the Contract Price identified on the Agreement within 30 days of CLIENT's receipt of AMERESCO's invoice. Payments shall be made on account of materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work. Off-Site storage of materials is permitted. Upon final completion of the Work, AMERESCO shall submit to CLIENT a final invoice of all remaining sums. Payment of the final payment shall be made within 30 days after CLIENT's receipt of the final Application for Payment.

5.2 Except to the extent expressly agreed in writing, AMERESCO's fees do not include any taxes, excises, fees, duties or other government charges related to the Work, and Customer shall pay such amounts or reimburse AMERESCO for any amounts it pays. If Customer claims a tax exemption or direct payment permit, it shall provide AMERESCO with a valid exemption certificate or permit.

#### **Article 6 – Insurance**

6.1 CLIENT and AMERESCO will maintain, at its own expense, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Price, plus the value of subsequent modifications and cost of materials supplied or installed by others, on a replacement cost basis without optional deductibles. Such property insurance shall be maintained until final payment has been made to AMERESCO.

6.2 Risk of loss of materials and Equipment furnished by AMERESCO shall pass to Customer upon delivery to Customer's premises, and Customer shall be responsible for protecting and insuring them against theft and damage.

6.3 ANYTHING HEREIN NOTWITHSTANDING, IN NO EVENT SHALL AMERESCO BE RESPONSIBLE UNDER THIS AGREEMENT FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, LOSS OF USE AND/OR LOST BUSINESS OPPORTUNITIES, WHETHER ARISING IN WARRANTY, LATE OR NON-DELIVERY OF ANY WORK, TORT, CONTRACT OR STRICT LIABILITY, AND REGARDLESS OF WHETHER CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. . AMERESCO reserves the right to control the defense and settlement of any claim for which AMERESCO has an obligation to indemnify hereunder. The parties acknowledge that the price which AMERESCO has agreed to perform its Work and obligations under this Agreement is calculated based upon the foregoing limitations of liability, and that AMERESCO has expressly relied on, and would not have entered into this Agreement but for such limitations of liability.

#### **Article 7 - Hazardous Material Provisions**

7.1 The Work does not include directly or indirectly performing or arranging for the detection, monitoring, handling, storage, removal, transportation, disposal or treatment of Oil or Hazardous Materials. Except as disclosed pursuant to Section 7.3, Customer represents that there is no asbestos or any other hazardous or toxic materials, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the regulations promulgated thereunder, and other applicable federal, state or local law ("Hazardous Materials"), present at Customer's locations where Work is performed. AMERESCO will notify Customer immediately if it discovers or suspects the presence of any Hazardous Material. All Work has been priced and agreed to by AMERESCO in reliance on Customer's representations as set forth in this Section 7.1 The presence of Hazardous Materials constitutes a change in the Proposed Solution equivalent to a change order whose terms must be agreed to by AMERESCO before its obligations hereunder will continue.

7.2 Customer shall be solely responsible for testing, abating, encapsulating, removing, remediating or neutralizing such Hazardous Materials, and for the costs thereof. Even if an appropriate change order has been entered into pursuant to Section 7.1 above, AMERESCO will continue to have the right to stop the Work until the job site is free from Hazardous Materials. In such event, AMERESCO will receive an equitable extension of time to complete its Work, and compensation for delays caused by Hazardous Materials remediation. In no event shall AMERESCO be required or construed to take title, ownership or responsibility for such Oil or Hazardous Materials. Customer shall sign any required waste manifests in conformance with all government regulations, listing Customer as the generator of the waste.

7.3 Customer warrants that, prior to the execution of the Agreement, it has notified AMERESCO in writing of any and all Hazardous Materials present, potentially present or likely to become present at Customer's locations and has provided a copy of any jobsite safety policies, including but not limited to lock-out and tag procedures, laboratory procedures, chemical hygiene plan, material safety

#### **Article 8 – Warranty**

8.1 CLIENT shall have good and clear title to all equipment and material furnished to CLIENT pursuant to this Agreement (except licensed software, which shall be governed exclusively by the terms and conditions of the Software License Agreement), free and clear of liens and encumbrances.

8.2 In addition to the warranty and guarantee set forth in the Installation Contract, AMERESCO shall assign to CLIENT any and all manufacturers and/or installer's warranties for equipment or material provided as part of the Work, to the extent that such third-party warranties are assignable. Prior to installing material and/or equipment which is subject to a manufacturer's warranty, AMERESCO shall provide a copy of the warranty to the CLIENT

8.3 The warranties and guarantees set forth in the Installation Contract will be void as to, and shall not apply to, any Equipment (i) improperly repaired, altered or installed except when such improper repair, alteration or installation is performed by AMERESCO or its authorized representatives and Subcontractor; (ii) subjected to unreasonable or improper use or storage, used beyond rated conditions, operated other than per AMERESCO's or the manufacturer's instructions, or otherwise subjected to improper maintenance, negligence or accident; (iii) damaged because of any use of the Equipment after CLIENT has, or should have, knowledge of any defect in the Equipment. AMERESCO assigns to CLIENT, without recourse, any and all assignable warranties available from any manufacturer, supplier, or Subcontractor of such Equipment.

8.4 Any claim under the warranty granted in the Installation Contract must be made per the terms of the Installation Contract. Such warranty only extends to CLIENT and not to any subsequent owner of the Equipment.

8.5 It is understood and agreed that the warranties and guarantees as provided in the Installation Contract are the sole warranties and guarantees provided by AMERESCO and are given in lieu of any other express or implied warranties, including any and all warranties that are not provided by AMERESCO in this Agreement.

#### **Article 9 - Miscellaneous Provisions**

9.1 Notices between the parties shall be in writing and shall be sent by overnight carrier or acknowledged email to the other party.

9.2 This Agreement shall be governed by the laws of the State of Ohio, and the parties agree to the exclusive jurisdiction of any state or federal court located in Adams County, Ohio.

9.3 A party's waiver of any breach of this Agreement does not waive any subsequent breach. All waivers must be in writing signed by the party to be bound.

9.4 This Agreement constitutes the complete agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements, awards, or proposals, either written or oral, relative to the same. Only a written instrument signed by both parties may modify this Agreement.

**Article 10 – Termination.** If CLIENT fails to make payments as they become due, or otherwise defaults or breaches its obligations under this Agreement, AMERESCO may give written notice to CLIENT of AMERESCO's intention to suspend or terminate this Agreement. If, within 15 days following receipt of such notice, CLIENT fails to make payments then due, or otherwise fails to cure or perform its obligations, AMERESCO may, by written notice to CLIENT, immediately terminate this Agreement and recover from CLIENT payment for Work executed.