

**ENVIROSPARK ENERGY SOLUTIONS, INC.**

**INDEPENDENT CONTRACTOR SERVICES  
AGREEMENT COVER SHEET**

Agreement No.: \_\_\_\_\_

Independent Contractor Name: \_\_\_\_\_ d/b/a: (if applicable) \_\_\_\_\_

Organization type (e.g., corporation, LLC): \_\_\_\_\_ State of organization: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Effective Date: \_\_\_\_\_, 20\_\_\_\_

**Term:** The initial term of the Agreement commences on the Effective Date and continues for a one (1)-year period ending on the first anniversary of the Effective Date (“Initial Term”), unless earlier terminated in accordance with the Agreement. Upon expiration of the Initial Term, the term of the Agreement will automatically be renewed for successive one-year periods (each, a “Renewal Term”), unless either party gives written notice to the other Party, at least ninety (90) days before the scheduled date of expiration of the Initial Term or any Renewal Term, that the term of the Agreement will not be so extended.

**Agreement:** This Cover Sheet, the attached General Terms and Conditions, and each Statement of Work entered into by the Parties, and any other documents attached to this Cover Sheet or incorporated into the Agreement by reference or attachment, together comprise the agreement between the parties (the “Agreement”). EnviroSpark Energy Solutions, Inc., is referred to in the Agreement as “EnviroSpark”, and the entity or person identified above is referred to as “Contractor.”

Exhibits to this Cover Sheet are:

- Exhibit A – General Terms and Conditions
- Exhibit B – Form of Statement of Work

Each party has caused this Cover Sheet to the Agreement, and therefore the Agreement, to be executed by a duly authorized representative.

**AGREED AND ACCEPTED:**

**ENVIRO SPARK ENERGY SOLUTIONS, INC.**  
**(“ENVIROSPARK”)**

\_\_\_\_\_  
**(“CONTRACTOR”)**

By: \_\_\_\_\_  
(Authorized Signature)

By: \_\_\_\_\_  
(Authorized Signature)

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

1389 Chattahoochee Ave NW  
Atlanta, Georgia 30318  
Attention: Aaron Luque, President/CEO

## EXHIBIT A GENERAL TERMS AND CONDITIONS

These General Terms and Conditions are attached to and incorporated into the EnviroSpark Energy Solutions, Inc. ("EnviroSpark") Independent Contractor Services Agreement (the "Agreement") between EnviroSpark and the contractor listed on the Cover Sheet ("Contractor"). These General Terms and Conditions shall apply to all Services rendered by Contractor to or for EnviroSpark pursuant to the Agreement. Specific terms and conditions related to any particular project may be set forth in the applicable SOW or P.O. Contract. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Agreement. To the extent that there are any inconsistencies between these General Terms and Conditions, on the one hand, and a SOW on the other hand, the more specific terms and conditions of the latter document will control.

### 1. Services.

1.1 EnviroSpark hereby engages Contractor, and Contractor hereby accepts such engagement, as an independent contractor to provide certain services to EnviroSpark on the terms and conditions set forth in the Agreement and these General Terms and Conditions (these "Terms").

1.2 Contractor shall provide to EnviroSpark the services set forth on each Statement of Work (also referred to as "SOW") entered into by the Parties substantially in the form of Exhibit B and supported by an EnviroSpark P.O. (as defined below) (the "Services"). Contractor shall not commence the performance of any Services on EnviroSpark's behalf unless a valid SOW and purchase order specifying the Services have been signed and delivered to Contractor by EnviroSpark (each such signed purchase order, a "P.O."). EnviroSpark and Contractor may also make adjustments to any SOW or may establish a contract pursuant to this Agreement (including all of these General Terms and Conditions) for Services without executing an SOW if: (a) Contractor provides to EnviroSpark a written estimate of the scope of Services, and (b) EnviroSpark responds to such estimate with a P.O. expressly referring to such estimate (each such exchange forming a "P.O. Contract"). Contractor shall not provide any services in addition to, or different from, the Services specified in a SOW or in a P.O. Contract, and EnviroSpark shall have no obligation to pay for any such additional or different services, unless and until EnviroSpark has signed a written change order, or P.O. Contract supplementing a SOW, specifying in detail any changes to the scope, cost and time frame for performance of Services.

1.3 EnviroSpark may instruct Contractor to alter, amend, omit, add or to otherwise vary any part of the Services. If Contractor believes the schedule or compensation for the Services should be modified as a result of the proposed change, Contractor must, within three business days of receipt of such revision to the P.O., provide EnviroSpark with a detailed fixed price proposal of the anticipated effect on the schedule and the increase or decrease in compensation necessitated by the change. If increased, EnviroSpark will not be responsible for payment of any such additional costs or expenses if not properly submitted by Contractor within the three (3) business day period set forth above. Contractor will not unreasonably withhold its consent to any change. Following the issuance of a P.O. revision and during the pendency of any negotiation, Contractor will continue to provide the Services as specified in the P.O. Contractor shall complete the Services at each Work Site (as defined below) on or before the completion date established by EnviroSpark in the applicable SOW or P.O. Contract, and all costs associated with meeting said completion date shall be borne by Contractor.

1.4 EnviroSpark shall not control the manner or means by which Contractor, or Contractor's employees or contractors perform the Services; provided, however, that no contractor (or subcontractor) of Contractor shall perform Services on Contractor's behalf unless such subcontractor has agreed in writing to be bound by all of the terms and conditions of this Agreement applicable to Contractor and EnviroSpark has consented in writing to Contractor's engagement of such subcontractor for purposes of so providing Services.

1.5 Unless otherwise set forth in any SOW or P.O. Contract, Contractor shall furnish, at Contractor's own expense, the equipment, supplies, and other materials used to perform the Services. Contractor is solely responsible for all costs associated with Contractor's employees and subcontractors and for all such persons' performance of Services under this

Agreement.

1.6 Contractor's performance of Services pursuant to a SOW or P.O. Contract shall include in each instance: (a) Contractor's submission to EnviroSpark, and ongoing updating, of a written Job Safety Analysis in the form specified by EnviroSpark from time to time, which shall identify in reasonable detail job and work-site safety risks and mitigation plans therefor; and (b) Contractor's submission to EnviroSpark, on each weekday (or weekend day on which services were performed), no later than 10:00 a.m. local time (that is, local time at the applicable Services location), through electronic means in the form provided by EnviroSpark from time to time, a Daily Report of progress on the Services provided under such SOW or P.O. Contract until that time, which Daily Report shall include clear photographic support (not less than five photographs) evidencing the reported progress. Contractor shall cause each person performing Services on Contractor's behalf at each work site at which Contractor performs Services under this Agreement (including under any SOW or P.O. Contract) (each a "Work Site") to acknowledge in a signed writing his or her having received applicable job safety training and such person's agreement that he or she shall comply with the mitigation plans, participate in job safety meetings and briefings, and at all times in performance of Services comply with those measures specified in the applicable Job Safety Analysis. With respect to each SOW or P.O. Contract, if Contractor fails, on more than one (1) occasion, to submit a complete and accurate Daily Report as specified above on any day on which Services are performed, Contractor shall pay to EnviroSpark, as liquidated damages and not as a penalty (it being difficult to ascertain actual damages), an amount equal to one hundred dollars (\$100) for the second such occasion and an amount equal to five hundred dollars (\$500) for the third and each subsequent occasion for so long as the applicable SOW or P.O. Contract remains in effect.

2. Term. The term of this Agreement shall commence on as of the Effective Date set forth on the Cover Sheet and shall continue as specified in the Term section on the Cover Sheet, unless earlier terminated in accordance with Section 10 (the "**Term**"). Any extension of the Term will be subject to mutual written agreement between the parties.

### 3. Fees and Expenses: Payment.

3.1 As full compensation for the Services and the rights granted to EnviroSpark in this Agreement, EnviroSpark shall pay Contractor the fixed fee of specified in the applicable SOW or P.O. Contract (the "Fees"), payable on completion of the Services to EnviroSpark's satisfaction; provided, however, that EnviroSpark may withhold payments or portions of payments to the extent EnviroSpark's customer has failed or refused to make, or otherwise withheld, payment to EnviroSpark with respect to the applicable Services. Contractor acknowledges that it will receive an IRS Form 1099-MISC from EnviroSpark, and that Contractor shall be solely responsible for all federal, state, and local taxes, as set out in Section 4.2 of these Terms. Contractor further acknowledges that Fees, and all other pricing provided by Contractor, shall be deemed to include all applicable federal, social security, excise, state, unemployment, sales, use, gross receipts, and income taxes (collectively "Taxes") imposed in connection with the Services performed and materials furnished here under, and no extra charges for Taxes shall be submitted to EnviroSpark.

3.2 Contractor is solely responsible for any travel or other costs or expenses incurred in connection with the performance of the Services, and in no event shall EnviroSpark reimburse Contractor for any such costs or expenses.

3.3 Provided that EnviroSpark has received from Contractor all Permits (as defined in section 7 below) and a completed IRS Form W-9, EnviroSpark shall pay all undisputed Fees net thirty (30) days after EnviroSpark's receipt of an invoice submitted by Contractor, which payments Contractor shall permit EnviroSpark to make by any major credit card charge without any additional cost to EnviroSpark. Contractor may only invoice EnviroSpark after EnviroSpark's written notice that the Services specified in the applicable Statement of Work have been completed and only if Contractor has delivered to EnviroSpark together with such invoice: (i) a release and waiver of lien executed by Contractor covering the entire amount of the partial payment requested or full and final payment for all Services performed pursuant to an SOW or P.O. Contract, as the case may be, substantially in the forms attached to these Terms as Schedule 1 and Schedule 2, or in such other form as directed by EnviroSpark or as required by applicable law of the location of the Services, and (ii) a substantially identical unconditional release and waiver of lien executed by any subcontractor performing Services or furnishing materials or supplies for the Services approved by EnviroSpark in advance ("Approved Subcontractor"), which waivers will be equal to the amount of all payments made by Contractor to such Approved Subcontractor prior to submitting said invoice. Any payments made to Contractor by EnviroSpark for progress made on the applicable Services shall not constitute acceptance by EnviroSpark of such Services or any portion thereof. EnviroSpark may set off, against amounts payable to Contractor under any SOW or P.O. Contract, any or all amounts due, or reasonably claimed to be due, to EnviroSpark from Contractor under this Agreement, including any other SOW or any P.O. Contract. EnviroSpark may retain 10% of the total amount invoiced by Contractor (such retainage will be paid to Contractor within 30 days of final completion of the applicable Services), provided Contractor is in compliance with the terms and conditions hereof.

3.4 If Contractor fails to make payments to any Approved Subcontractors in the performance of the Services, EnviroSpark may retain, out of payments due or to become due to Contractor, reasonable amounts to satisfy any claims, bonds, or liens against the real property or personal property at the Work Site, to issue joint checks to Subcontractor and its Approved Subcontractors and any potential bond or lien claimant, or to pay such Approved Subcontractors to protect EnviroSpark from any and all loss, damage and expense (including attorneys' fees) arising out of or related to a claim or lien by an Approved Subcontractor.

3.5 Notwithstanding which party has title to the work product resulting from the Services, the risk of damage to or loss of any material, equipment, supplies or other property, whether stored on or off the Work Site, shall remain with Contractor until the earlier of the date of final completion of Services at the Work Site or occupancy of the Work Site by the applicable EnviroSpark client.

#### 4. Relationship of the Parties.

4.1 Contractor is an independent contractor of EnviroSpark and this Agreement shall not be construed to create any association, partnership, joint venture, employee, or agency relationship between Contractor and EnviroSpark for any purpose. Contractor shall have no authority (and shall not hold itself out as having authority) to bind EnviroSpark, and Contractor shall not make any agreements or representations on EnviroSpark's behalf without EnviroSpark's prior written consent.

4.2 Without limiting Section 4.1, Contractor and its personnel will not be eligible to participate in any vacation, group medical or life insurance, disability, profit sharing or retirement benefits, or any other fringe benefits or benefit plans offered by EnviroSpark to its employees, and EnviroSpark will not be responsible for withholding or paying any income, payroll, Social Security, or other federal, state, or local taxes, making any insurance contributions, including for unemployment or disability, or obtaining worker's compensation insurance on your behalf. Contractor shall be responsible for, and shall indemnify EnviroSpark against, all such taxes or contributions, including penalties and interest. Any persons employed or engaged by Contractor in connection with the performance of the Services shall be Contractor's employees or contractors and Contractor shall be fully responsible for them and indemnify EnviroSpark against any claims made by or on behalf of any such employee or contractors.

4.3 Contractor will not subcontract any portion of the Services without EnviroSpark's prior written approval and will remain fully liable to

EnviroSpark for the portion of the Services performed by, and for the acts or omissions of, all approved subcontractors, materialmen or suppliers of any tier (hereinafter "Lower-Tier Subcontractors") and their respective employees and other persons or entities performing portions of the Services. Contractor will require any approved Lower-Tier Subcontractors to comply with the applicable terms hereof (including safety requirements), provide insurance as required herein, name as additional insureds and indemnify, all persons identified in Section 8.1 of these Terms.

4.4 Contractor shall ensure that Contractor's personnel are drug-free and able to perform their duties safely and efficiently by, among other measures, implementing a drug testing program to ensure compliance with applicable laws and regulations, and to protect the safety of Contractor's workers and those around them, and acknowledges that Contractor is required to ensure that blood/urine testing for drug use or breath testing for alcohol analysis is performed by a Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory for the following, but not limited to controlled substances: cocaine, opiates, amphetamines, phencyclidine, and marijuana. The levels of acceptance (rejection) for drugs shall be determined based upon SAMHSA guidelines. Onsite enzyme immunoassay or colorimetric alcohol saliva screenings are permitted in lieu of laboratory analysis; however, all positive tests shall be confirmed by gas chromatography/mass spectrometry laboratory analysis. Alcohol levels in the blood in excess of 0.02 percent shall be considered unacceptable (positive) Contractor understands that "Substance Abuse Screening" means the testing for the use of illicit drugs (including but not limited to, opiates, cocaine, cannabinoids, amphetamines, and phencyclidine (PCP)). Contractor shall provide EnviroSpark with a copy of its drug screening policy currently in effect.

#### 5. Confidentiality.

5.1 Contractor will have access to information that is treated as confidential and proprietary by EnviroSpark, including, without limitation, the existence and terms of this Agreement, trade secrets, technology, and information pertaining to business operations and strategies, customers, pricing, marketing, sourcing, personnel, and operations of EnviroSpark, its affiliates and its suppliers and customers, in spoken, written, printed, electronic, or in any other form or medium (collectively, the "**Confidential Information**"). Contractor shall: (a) treat all Confidential Information as strictly confidential; (b) not disclose Confidential Information or permit it to be disclosed, in whole or part, to any third party without the prior written consent of EnviroSpark in each instance, and (c) not use any Confidential Information for any purpose except as required in the performance of the Services. Contractor shall notify EnviroSpark immediately in the event Contractor becomes aware of any loss or disclosure of any Confidential Information.

5.2 Confidential Information Confidential Information shall not include information that: (a) is or becomes generally available to the public other than through Contractor's breach of this Agreement; or (b) is communicated to Contractor by a third party that had no confidentiality obligations with respect to such information.

5.3 Nothing herein shall be construed to prevent disclosure of Confidential Information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation, or order. Contractor shall provide written notice of any such order to an authorized officer of EnviroSpark immediately after receiving such order, but in any event sufficiently in advance of making any disclosure to permit EnviroSpark to contest the order or seek confidentiality protections, as determined in EnviroSpark's sole discretion.

6. Intellectual Property. EnviroSpark shall own exclusively all intellectual property rights, including patents, trade secrets, copyrights, trademarks, tradenames, service marks, logos, and related product and service names, design marks and tag lines, and rights in applications regarding any of the foregoing, developed or obtained by EnviroSpark before, during or after the Term of this Agreement. Contractor may not use any of the foregoing for any purpose other than performing Services under this Agreement, and shall not use any EnviroSpark trademarks (or any of the other names and marks described above in this Section 6) in any advertising, publicity or in any other

commercial manner without the prior written consent of EnviroSpark.

## 7. Representations, Covenants and Warranties.

7.1 Contractor represents, covenants and warrants to EnviroSpark that:

(a) Contractor has the right to enter into this Agreement and to perform fully all of Contractor's obligations in this Agreement;

(b) Contractor's entering into this Agreement with EnviroSpark and Contractor's performance of the Services do not and will not conflict with or result in any breach or default under any other agreement to which Contractor is a party;

(c) Contractor has the required skill, experience, and qualifications to perform the Services, and has obtained and maintained all consents, licenses, permits, certificates and similar approvals required by applicable ordinance, regulation or law for it to perform the Services (collectively "Permits");

(d) Contractor shall perform the Services in a professional and workmanlike manner in accordance with best industry standards for similar services and shall devote sufficient resources to ensure that the Services are performed in a timely and reliable manner;

(e) Contractor shall perform the Services, and shall cause all approved Lower-Tier Subcontractors to perform the Services, in compliance with all applicable federal, state, and local laws and regulations, including (without limitation) occupational and workplace safety laws and regulations (including, without limitation, the Occupational Safety and Health Act of 1970, as amended, and the regulations promulgated thereunder, collectively referred to as "OSHA") and the Immigration Reform and Control Act of 1986 as amended and regulations promulgated thereunder;

(f) Contractor shall not, and shall cause all approved Lower-Tier Subcontractors not to, create or permit to exist in the performance of Services any unsafe working environment that could lead to violations of applicable laws or regulations or to injury to persons, including (without limitation) by requiring its employees and contractors, and its approved Lower-Tier Subcontractors' employees and contractors, to wear personal protective equipment as mandated by OSHA;

(g) Contractor shall not, and shall cause all approved Lower-Tier Subcontractors not to, provide or allow any Services to be performed by any employees, laborers, or subcontractors who have a history of criminal convictions or deferred-adjudication or who pose a potential threat or risk of injury to persons, whether EnviroSpark personnel, customers or others. Criminal history might include, but is not limited to, such crimes as assault, battery, rape, molestation, sexual assault, indecent exposure, indecency with a child, murder or kidnapping;

(h) All Services and equipment installed in connection therewith shall result in operating EnviroSpark systems that perform in accordance with the applicable manufacturers' published specifications, and that comply with the description of Services set forth in the applicable SOW or P.O. Contract, for a period of one (1) year from the date of the completion of the applicable Services. If any element of the Services does not conform to the foregoing warranty during such 1-year period, Contractor will, as promptly as practicable, re-perform such element in a manner that does conform; provided, however, that if in the reasonable judgment of EnviroSpark such re-performance is impracticable and such non-conformance has harmed EnviroSpark, EnviroSpark shall so notify Contractor, Contractor will promptly refund that portion of the fees allocable to such non-conforming element, EnviroSpark shall be entitled to re-perform, or have such Services re-performed, at Contractor's expense, and EnviroSpark shall have available to it all other rights and remedies provided at law or in equity with respect thereto;

(i) All tangible goods provided by Contractor to EnviroSpark or to a third party on EnviroSpark's behalf in connection with the Services shall be free from defects in materials and workmanship for a period of one (1) year from contractor's delivery thereof;

(j) Contractor shall have, before commencing Services at a location specified in the applicable SOW or P.O. Contract, satisfied itself concerning the nature and location of the Services, including all conditions (surface, sub-surface or otherwise) that may affect Contractor's performance of the Services. Failure to acquaint itself with such applicable conditions will not relieve Contractor of its responsibility for properly performing its obligations hereunder. Prior to commencement of any Services, Contractor shall have: (a) thoroughly examined all drawings and specifications and examined the Services location and surrounding area and ascertained for itself the conditions to be encountered; and (b) relied solely on its own information and investigation and not on statements or representations, if any, that may be made or have been made by EnviroSpark. Any investigations of location of the Services and its surface or subsurface conditions provided by EnviroSpark or the applicable EnviroSpark customer are for information only and are furnished without warranty or guarantee of their content. Contractor assumes full responsibility for any and all risks in connection with the performance of the Services, and the risk of any loss arising out of performance of the Agreement caused by any conditions at such location. Contractor will not be relieved of its obligations to perform the Services in accordance with the SOW or P.O. Contract by tests, inspections or approvals required or performed by persons other than Contractor;

(k) Contractor shall cause all Approved Subcontractors' warranties to be no less stringent or robust than the warranties provided herein. Contractor and any such Approved Subcontractor warranties shall be assignable to EnviroSpark's client or such client's designee;

(l) The performance of the Services, the tangible work product resulting from the Services, and EnviroSpark's clients' use of such work product shall not infringe or violate any patent, trademark, copyright, trade secret or any other intellectual property rights of any third party;

(m) Contractor shall not, and shall cause Contractor's officers, employees and representatives not to, disparage or encourage or induce others to disparage EnviroSpark or any of its past and present officers, directors, members, managers, agents, employees and products, or EnviroSpark's current or former clients. For purposes of this Agreement, the term "disparage" means (except as required by law but otherwise without limitation) comments or statements to the press or any individual or entity with whom EnviroSpark has or may have a business relationship that are reasonably likely to adversely affect: (i) EnviroSpark's business reputation; (ii) the conduct of the business of EnviroSpark (including, without limitation, any business plans or prospects); or (iii) the business reputation of EnviroSpark or any of its past and present officers, directors, members, managers, agents, employees and products; and

(n) If Contractor fails to promptly correct defective work, EnviroSpark may, at Contractor's expense, make the corrections and withhold all amounts expended in connection with such corrections from any payments owed to Contractor. This remedy shall be in addition to, and not in limitation of, any other remedy available to EnviroSpark at law or in equity.

7.2 EnviroSpark hereby represents and warrants to Contractor that:

(a) it has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder; and

(b) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action.

## 8. Indemnification.

8.1 To the fullest extent permitted by law, Contractor shall defend, indemnify and hold EnviroSpark and each customer identified in each SOW or P.O. Contract ("SOW Customer"), and the officers, employees, directors and agents of each of them, harmless from and against any and all losses, actions, claims, liabilities, damages, demands, obligations, costs and expenses (including reasonable attorneys' fees and costs) arising out of or relating to: (a) Contractor's performance of work or provision of Services under this Agreement; (b) Contractor's breach of this Agreement, including breach of any warranty, representation or covenant under this Agreement; (c) the acts or omissions or willful misconduct of Contractor or of any of

Contractor's employees, agents, subcontractors and representatives; (d) violations of applicable laws or regulations by Contractor or of any of Contractor's employees, agents, subcontractors and representatives; and/or (e) the creation of an unsafe workplace environment in performance of the Services by Contractor or any of Contractor's employees, agents, subcontractors and representatives.

8.2 EnviroSpark may satisfy such indemnity (in whole or in part) by way of deduction or offset from any payment due to Contractor under this Agreement, including under any SOW or P.O. Contract.

9. Insurance. At all times during the Term of this Agreement, Contractor shall procure and maintain, at its sole cost and expense, and shall cause any subcontractors of Contractor performing any portion of the Services to so procure and maintain, the policies of insurance and coverages thereunder as specified and fully in accordance with *Schedule 3* attached to these Terms. Contractor shall provide EnviroSpark with copies of the certificates of insurance and policy endorsements required by this Section 9 upon the written request of EnviroSpark, and shall not do anything to invalidate such insurance.

10. Termination.

10.1 Either Contractor or EnviroSpark may terminate this Agreement without cause upon sixty (60) days' written notice to the other party to this Agreement; provided, however, that any Services under any SOW or P.O. Contract that have not yet been completed on the effective date of termination shall remain in effect until such Services have been completed, and EnviroSpark shall be entitled to require Contractor to remove any Contractor personnel (including approved subcontractors) from performance of Services under any SOW or P.O. Contract immediately upon notice to Contractor. EnviroSpark may terminate any SOW or P.O. Contract for its convenience, with or without cause, effective immediately upon notice to Contractor. EnviroSpark shall also be entitled at any time to suspend or stop all or any portion of the Services under any SOW or P.O. Contract. Suspension or stoppage of Services shall not relieve or release Contractor from its obligation to otherwise perform Services. Upon being notified of the suspension or stoppage of Services, Contractor shall immediately take such steps as may be necessary to protect the Services, materials and equipment and to eliminate, reduce and minimize costs. Contractor shall immediately resume any Services interrupted, suspended or delayed pursuant to this Section 10.1 when directed to do so by EnviroSpark.

10.2 Either Contractor or EnviroSpark may terminate this Agreement, effective immediately upon written notice to the other party to this Agreement, if such other party breaches any material term or condition of this Agreement.

10.3 Upon expiration or termination of this Agreement for any reason, or at any other time upon EnviroSpark's written request, Contractor shall promptly after such expiration or termination, permanently erase all of the Confidential Information from Contractor's computer systems and certify in writing to EnviroSpark that Contractor has complied with the requirements of this paragraph.

10.4 The terms and conditions of this paragraph and Section 4, Section 5, Section 6, Section 7, Section 8, Section 10.3, Section 11, Section 12, Section 13, and Section 14 shall survive the expiration or termination of this Agreement for any reason.

11. Covenants Regarding Other Business Activities. Contractor may be engaged or employed in any other business, trade, profession, or other activity which does not place Contractor in a conflict of interest, or the appearance thereof, with EnviroSpark; provided, that, during the Term, Contractor shall not be engaged in any business activities that do or may compete with the business of EnviroSpark, including performing any services for any direct competitors of EnviroSpark without EnviroSpark's prior written consent, to be given or withheld in its sole discretion, and Contractor may not solicit business of any kind from any person, firm or entity with whom EnviroSpark has a legitimate business interest and with whom EnviroSpark had direct and substantial contact for a business purpose at any time during the two (2)-year period immediately prior thereto ("EnviroSpark Customer"). In the event that EnviroSpark brings any legal action to enforce the terms of this Section 11, Contractor shall pay to EnviroSpark all attorneys' fees and costs incurred by EnviroSpark in connection therewith promptly upon demand.

12. Non-Solicitation Covenant. During the Term of this Agreement and for a period of twelve (12) months following the termination or expiration of this Agreement, Contractor shall not: (a) make any solicitation to employ EnviroSpark's personnel without written consent of EnviroSpark, to be given or withheld in EnviroSpark's sole discretion; or (b) solicit or accept, directly or indirectly, business from any EnviroSpark Customer other than in the performance of Services under this Agreement. For purposes of this Section, a general advertisement or notice of a job listing or opening or other similar general publication of a job search or availability to fill employment positions, including on the Internet, shall not be construed as a solicitation or inducement of any personnel, and the hiring of any such personnel who freely responds thereto shall not be a breach of this Section 12. In the event that EnviroSpark brings any legal action to enforce the terms of this Section 12, Contractor shall pay to EnviroSpark all attorneys' fees and costs incurred by EnviroSpark in connection therewith promptly upon demand.

13. Assignment. Contractor shall not assign any rights, or delegate or subcontract any obligations, under this Agreement without EnviroSpark's prior written consent. Any assignment in violation of the foregoing shall be deemed null and void. EnviroSpark may freely assign its rights and obligations under this Agreement at any time. Subject to the limits on assignment stated above, this Agreement will inure to the benefit of, be binding on, and be enforceable against each of the parties hereto and their respective successors and assigns.

14. Miscellaneous.

14.1 Contractor shall not export, directly or indirectly, any technical data acquired from EnviroSpark, or any products utilizing any such data, to any country in violation of any applicable export laws or regulations.

14.2 UPON THE RECEIPT OF THE FIXED FEES OR OTHER TOTAL AMOUNTS PAYABLE UNDER EACH SOW OR P.O. CONTRACT, CONTRACTOR WAIVES AND RELEASES ANY AND ALL LIENS OR CLAIMS OF LIENS IT HAS UPON THE ENVIROSPARK CUSTOMER'S PROPERTY ON WHICH CONTRACTOR HAS PERFORMED THE SERVICES OR ANY RIGHTS AGAINST ANY LABOR AND/OR MATERIAL BOND ON ACCOUNT OF LABOR OR MATERIALS, OR BOTH, FURNISHED BY CONTRACTOR TO OR ON ACCOUNT OF ENVIROSPARK FOR SAID PROPERTY. Contractor shall execute such lien waivers and releases as EnviroSpark shall reasonably request upon Contractor's receipt of such payments.

14.3 All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the first page of this Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this Section). All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees prepaid), facsimile [or email] (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only if (a) the receiving party has received the Notice and (b) the party giving the Notice has complied with the requirements of this Section.

14.4 This Agreement, together with any other documents incorporated herein by reference, including, without limitation, any and all installation guides and other materials provided by EnviroSpark to Contractor specifying processes and procedures to be followed in performing the Services, and related exhibits and schedules, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

14.5 This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto, and any of the terms thereof may be waived, only by a written document signed by each party to this Agreement or, in the case of waiver, by the party or parties waiving compliance.

14.6 This Agreement shall be governed by and construed in accordance with the internal laws of the State of Georgia without giving effect to any choice or conflict of law provision or rule. Each party irrevocably

submits to the exclusive jurisdiction and venue of the federal and state courts located in Fulton County, Georgia, in any legal suit, action, or proceeding arising out of or based upon this Agreement or the Services provided hereunder. Contractor and EnviroSpark shall each give the other prompt written notice of any claim, controversy, or dispute arising under or related to this Agreement or a Statement of Work, and both parties shall engage in good faith discussions to resolve the matter. If that fails to resolve the matter promptly, either party may demand that the dispute be resolved by arbitration before a sole arbitrator who is an attorney, under the then-current Commercial Arbitration Rules of the American Arbitration Association. The duty and right to arbitrate will extend to any employee, officer, director, shareholder, agent, or Affiliate, of a party to the extent that right or duty arises through a party or is related to this Agreement. The decision and award of the arbitrator will be final and binding, and the award rendered may be entered in any court having jurisdiction. The arbitrator will be directed to hear and decide potentially-dispositive motions in advance of a hearing on the merits by applying the applicable law to uncontested facts and documents. The arbitration will be held in Fulton County, Georgia. Each party will bear its

own costs and expenses related to the arbitration (including attorneys' fees) and the parties will share evenly the fees and costs charged by the arbitrator; provided, however, that the prevailing party in the arbitration, as determined by the arbitrator, shall be awarded its reasonable attorney fees. The arbitrator will not have authority to award punitive damages, consequential damages or any damages other than direct damages, nor have the authority to award direct damages inconsistent with the limitations and exclusions set forth in this Agreement.

14.7 If any term of provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

14.8 This Agreement may be executed in multiple counterparts and by facsimile signature, each of which shall be deemed an original and all of which together shall constitute one instrument.

**Schedule 1**  
**PARTIAL RELEASE AND WAIVER OF LIEN**

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This Release and Waiver of Lien ("Release and Waiver of Lien") is entered into by \_\_\_\_\_ ("Contractor") which has furnished labor, materials, supplies, and/or other goods or services (collectively the "Services") under SOW No. \_\_\_\_\_ or P.O. Contract under EnviroSpark P.O. number \_\_\_\_\_ (each, an "SOW") issued under the Independent Contractor Services dated \_\_\_\_\_, 20\_\_\_\_, between Contractor and EnviroSpark Energy Solutions, Inc. ("EnviroSpark") in connection with a project for EnviroSpark's client, \_\_\_\_\_ ("Client"). The Services was performed at \_\_\_\_\_, in \_\_\_\_\_ County, State of \_\_\_\_\_, ("Property") owned, leased, licensed to, used or occupied by Client.

For Services performed under the identified SOW, Contractor contemporaneously herewith requested payment of \$ \_\_\_\_\_ ("Payment") and \$ \_\_\_\_\_ remains to be paid under said SOW for Services to be performed.

1. Pursuant to the Agreement and referenced SOW, and in consideration of the Payment, the sufficiency of which are hereby acknowledged, Contractor represents, warrants and covenants that (i) all those persons claiming by, through, or under Contractor with respect to the Services invoiced, including, without limitation, any employee, subcontractor, supplier, materialman, or laborer, or any other person claiming by, through, or under Contractor (each, a "Supplier") who have performed any part of the Services invoiced, have been fully compensated by Contractor, and (ii) neither Contractor nor any of its Suppliers have any right to file any mechanic's lien or other lien, or any notice of intention to file such a lien, or to make any other claim with respect to any part of the Services performed against the Property, EnviroSpark or the Client (such liens, notices and claims being referred to collectively as "Lien Claims" and individually as a "Lien Claim".)

2. Contractor covenants, on behalf of itself and (to the extent permitted by law) of all Suppliers, that neither Contractor nor any Supplier will file or make, or permit to be filed or made, any Lien Claim against the Property, EnviroSpark or Client.

3. Contractor, on behalf of itself and (to the extent permitted by law) all Suppliers, hereby waives any Lien Claims that it or any of them may have with respect to the Services, and releases and forever discharges EnviroSpark and the Client, their respective affiliates, successors and assigns and the Property from any and all other actions, suits, proceedings, judgments, debts, accounts, bonds, covenants, contracts, promises, variances, damages, expenses, claims or demands of any kind whatsoever, whether arising in law or in equity, that Contractor or any Supplier has ever had or (to the extent Contractor knew or should have known thereof as of the date hereof) may now or in the future have against the Client, EnviroSpark or the Property arising in any way by reason of the Services performed or in connection therewith. Contractor will cause each Supplier that Contractor engages in connection with the Services to enter into a substantially similar form of Release and Waiver of Lien pursuant to which each such Supplier will waive and release Client, EnviroSpark and the Property from any Lien Claim, copies of which will be furnished to EnviroSpark upon request.

4. Contractor will indemnify, defend (with counsel acceptable to Client) and save and hold Client, EnviroSpark and the Property harmless from and against any loss, damages, costs, expenses, fees (including attorneys' fees) arising from any Lien Claims asserted in connection with or by reason of the Services performed by Contractor or anyone claiming by, through or under Contractor, or asserted or incurred by reason of a breach by Contractor of any covenant contained in this Release and Waiver of Lien or the failure or inaccuracy of any warranty or representation contained in this Release and Waiver of Lien.

This Release and Waiver of Lien has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by signing this document, the signatory warrants to be a appointed representative, authorized to bind Contractor.

CONTRACTOR

By: \_\_\_\_\_

Title: \_\_\_\_\_

**Schedule 2**  
**PARTIAL RELEASE AND WAIVER OF LIEN**

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This Final Release and Waiver of Lien ("Final Release and Waiver of Lien") is entered into by \_\_\_\_\_ ("Contractor") which has furnished labor, materials, supplies, and/or other goods or services (collectively the "Services") under SOW No. \_\_\_\_\_ or P.O. Contract under EnviroSpark P.O. number \_\_\_\_\_ (each, an "SOW") issued under the Independent Contractor Services Agreement dated \_\_\_\_\_, 20\_\_\_\_, between Contractor and EnviroSpark Energy Solutions, Inc. ("EnviroSpark") in connection with a project for EnviroSpark's client, \_\_\_\_\_ ("Client"). The Services were performed at \_\_\_\_\_ in \_\_\_\_\_ County, State of \_\_\_\_\_, ("Property") owned, leased, licensed to, used or occupied by the Client.

For Services performed under the identified SOW, Contractor contemporaneously herewith requested payment of \$ \_\_\_\_\_ ("Payment"), which represents the full and final payment under said SOW.

1. Pursuant to the Agreement and referenced SOW, and in consideration of the Payment, the sufficiency of which are hereby acknowledged, Contractor represents, warrants and covenants that (i) all those persons claiming by, through, or under Contractor with respect to the Services, including, without limitation, any employee, subcontractor, supplier, materialman, or laborer, or any other person claiming by, through, or under Contractor (each, a "Supplier") who have performed any part of the Services, have been fully compensated by Contractor, and (ii) neither Contractor nor any of its Suppliers have any right to file any mechanic's lien or other lien, or any notice of intention to file such a lien, or to make any other claim with respect to any part of the Services performed against the Property, EnviroSpark or Client (such liens, notices and claims being referred to collectively as "Lien Claims" and individually as a "Lien Claim".)

2. Contractor covenants, on behalf of itself and (to the extent permitted by law) of all Suppliers, that neither Contractor nor any Supplier will file or make, or permit to be filed or made, any Lien Claim against the Property, EnviroSpark or Client.

3. Contractor, on behalf of itself and (to the extent permitted by law) all Suppliers, hereby waives any Lien Claims that it or any of them may have with respect to the Services, and releases and forever discharges EnviroSpark and the Client, their respective affiliates, successors and assigns and the Property, from any and all other actions, suits, proceedings, judgments, debts, accounts, bonds, covenants, contracts, promises, variances, damages, expenses, claims or demands of any kind whatsoever, whether arising in law or in equity, that Contractor or any Supplier has ever had or (to the extent Contractor knew or should have known thereof as of the date hereof) may now or in the future have against the Client, EnviroSpark or the Property, arising in any way by reason of the Services performed or in connection therewith. Contractor warrants that it has caused each Supplier that Contractor engaged in connection with the Services to enter into a substantially similar form of Final Release and Waiver of Lien pursuant to which each such Supplier waived and released Client, EnviroSpark and the Property from any Lien Claim, copies of which will be furnished to EnviroSpark upon request.

4. Contractor will indemnify, defend (with counsel acceptable to EnviroSpark) and save and hold Client, EnviroSpark and the Property harmless from and against any loss, damages, costs, expenses, fees (including attorneys' fees) arising from any Lien Claims asserted in connection with or by reason of the Services performed by Contractor or anyone claiming by, through or under Contractor, or asserted or incurred by reason of a breach by Contractor of any covenant contained in this Final Release and Waiver of Lien or the failure or inaccuracy of any warranty or representation contained in this Final Release and Waiver of Lien.

This Final Release and Waiver of Lien has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and by signing this document, the signatory warrants to be a appointed representative, authorized to bind Contractor.

CONTRACTOR

By: \_\_\_\_\_

Title: \_\_\_\_\_



## Schedule 3

# INSURANCE REQUIREMENTS

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### I. General Requirements –

Contractor shall, at its sole cost, maintain insurance as required by this Agreement and shall impose the obligations of this Schedule 3 on all subcontractors approved in advance by EnviroSpark. Contractor shall give EnviroSpark ACORD insurance certificates evidencing the required coverage prior to execution of this agreement and as EnviroSpark may request from time to time. Contractor shall also give EnviroSpark, as EnviroSpark requests from time to time, insurance policy information necessary to demonstrate Contractor maintains the insurance limits and endorsements required by this Agreement. Contractor shall ensure the policies:

- (a) Contain a provision or endorsement that the coverage will not be cancelled, materially changed, or renewal refused unless the insurer gives at least thirty calendar days prior written notice to EnviroSpark.
- (b) Remain in effect through the warranty period applicable to the Services if coverage is occurrence-based and remain in effect at least one year after expiration of such warranty period if coverage is claims-based.
- (c) Are primary with respect to insurance covering indemnified parties identified in Section 8.1 of these Terms (“Indemnified Parties”) as additional insureds. All insurance carried by Indemnified Parties will be excess insurance.
- (d) Contain a waiver of all rights of subrogation by the insurance carriers in favor of Indemnified Parties, with the exception of professional liability coverage (if required under this Agreement).
- (e) Comply with all applicable laws of the jurisdiction in which any part of the Services is to be performed including, but not limited to, admitted and compulsory coverage.
- (f) Are rated "A-" or better by A.M. Best's "Insurance Guide and Ratings".

II. **Commercial General Liability Insurance** - Contractor shall maintain broad form commercial general liability insurance protecting Contractor, and Indemnified Parties as additional insureds (using endorsements CG 20 10 and CG 20 37 or their equivalent), against claims arising out of bodily injury or property damage arising from the Services. The policy must include a cross-liability or severability of interest clause, a per project aggregate endorsement, and coverage for personal injury liability, contractual liability, products and completed operations (covering lawsuits brought in the USA and the country of the Project Site, explosion, building collapse, and damage to underground property. The policy must include coverage for riggers liability if applicable to the Services. Contractor shall maintain policy limits of at least one million dollars for each occurrence and in the aggregate.

III. **Comprehensive Automobile Liability Insurance** – Contractor shall maintain comprehensive automobile liability insurance protecting Contractor, and Indemnified Parties as additional insureds, against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, whether owned, non-owned, or hired. Contractor shall maintain policy limits of at least one million dollars for each occurrence and in the aggregate.

IV. **Workers' Compensation and Employers' Liability Insurance** – Contractor shall maintain worker's compensation insurance protecting Contractor against all claims under applicable worker's compensation laws, including, but not limited to, the United States Longshoremen's and Harbor Worker's Act and the Jones Act. If Contractor is required to maintain worker's compensation insurance in the US, the worker's compensation insurance must contain an "all states" or "other states" endorsement. For Services performed in the US, Contractor shall also maintain employer's liability insurance protecting Contractor against claims for injury, disease or death of employees which are not covered by the worker's compensation insurance. Contractor shall maintain worker's compensation policy limits as required by statute and, if applicable to this Agreement, employer's liability policy limits of at least one million dollars for each occurrence and in the aggregate.

V. **Umbrella Liability Insurance** - Contractor shall maintain umbrella liability insurance that follows the form of the commercial general liability insurance, the employer's liability insurance and the automobile liability insurance. The umbrella liability insurance must protect Contractor, and Indemnified Parties as additional insureds, against claims in excess of the limits of the commercial general liability insurance, the employer's liability insurance, and the automobile liability insurance. Contractor shall maintain policy limits of at least four million dollars for each occurrence and in the aggregate.

VI. **Contractor's Equipment Insurance** – Contractor shall provide and maintain insurance, or shall self-insure, against loss or damage to all construction equipment, whether owned or leased by Contractor, which is utilized by Contractor to perform the Services and which is not permanently incorporated in the Project. Contractor waives any claim against the Indemnified Parties for loss or damage to such equipment. Contractor shall include a similar requirement in its subcontracts, and shall require its Lower-Tier Subcontractors to provide such a claim waiver for the benefit of Contractor and the Indemnified Parties.

**EXHIBIT B**

**FORM OF STATEMENT OF WORK**

**Statement of Work**

This Statement of Work number (“SOW”) shall be incorporated into the Agreement dated \_\_\_\_\_, 20\_\_\_\_\_(the “Agreement”) between EnviroSpark Energy Solutions, Inc. (“EnviroSpark”), and \_\_\_\_\_ (“Contractor”). Capitalized terms used in this SOW, which are not otherwise defined in this SOW, shall have the respective meanings assigned to them in the Agreement.

**Scope of Work**

Contractor will provide the following Services:

[detailed description of Services]

**Timeline and Fees**

This SOW covers work commencing on or about \_\_\_\_\_, 20\_\_and ending on \_\_\_\_\_, 20\_\_.

The fees for the Services shall be the following fixed fees: [specify fixed fee]

Without prejudice to any other rights or remedies available to EnviroSpark under the Agreement of which this SOW forms a part, EnviroSpark may deduct from the foregoing fixed fees ten percent (10%) of the outstanding balance for each week of delay in completion of the Services after the Services ending date specified above.

**Change Orders**

No changes to the scope of the Services shall be made, and EnviroSpark shall have no obligation to pay for, and Contractor shall not commence, any work pursuant to a change in scope unless and until the parties have entered into a signed, written change order, or P.O. Contract supplementing a SOW, specifying in detail the change in scope and its effects on specifications, timelines and fees.

**Miscellaneous**

Status meetings will be held as needed to review progress and to address any SOW issues. Contractor may accept this SOW by signing below where its name appears, by commencing performance of the Services specified herein, or by sending a reply e-mail to the e-mail message to which this SOW is attached that includes the name or other signature of an authorized representative of Contractor following the words “[Contractor] agrees” or words of similar effect. In the event of any inconsistency or conflict between this SOW and any terms set forth in the Agreement, the terms of the Agreement shall supersede, govern and control unless this SOW specifies that specific term(s) set forth in this SOW shall supersede, govern and control and is executed by Contractor and EnviroSpark.

This SOW is effective as of \_\_\_\_\_, 20\_\_(“SOW Effective Date”).

IN WITNESS WHEREOF, the parties hereto have caused their authorized representatives to execute this Statement of Work as of the SOW Effective Date.

**CONTRACTOR:**

\_\_\_\_\_

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

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

**Title:** \_\_\_\_\_

**ENVIROSPARK:**

**EnviroSpark Energy Solutions, Inc.**

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

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

**Title:** \_\_\_\_\_