**Stormwater Retention Credit Contract**

This Contract is made and entered into this \_\_\_ day of \_\_\_, 20\_\_, by and between \_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Buyer**”), whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Seller**”) whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_. Buyer and Seller may be referred to herein individually as a “Party” or collectively as the “Parties.”

1. **Purchase and Sale.** On the terms and subject to the conditions set forth in this Contract, the Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller a total quantity of \_\_\_\_\_\_\_\_\_\_ Stormwater Retention Credits (“**SRCs**”). The SRCs are identified by the following ranges of consecutively-numbered serial numbers (additional ranges of consecutively-numbered serial numbers are listed in Appendix A to this Contract):

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | Starting Serial Number | Ending Serial Number | Purchase Price per SRC in Range | Quantity of SRCs in Range | Purchase Price per Range |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
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|  |  |  |  |  |  |
|  |  |  |  |  |  |
| Total: |  |  |  |  |  |

1. **Transfer Date.** The transfer of SRCs described in Section 1 from Seller to Buyer shall occur on the date of issuance of the Department of Energy & Environment (“**DOEE**”) letter approving the Application for the Transfer of Stormwater Retention Credit Ownership (“**DOEE Letter**”).
2. **Purchase Price.** The total price for the SRCs shall be \_\_\_\_\_\_\_ dollars and \_\_\_\_\_ cents ($\_\_.\_\_) (“**Purchase Price**”), paid directly to an account designated by Seller. Buyer will issue a one-time payment for the Purchase Price in the form agreed to by the parties to such designated Seller account as detailed in Appendix B to this Contract.
3. **Timing.** 
   1. Buyer shall pay Seller as described in Section 3 no later than \_\_\_\_\_\_\_\_\_\_ (**“Payment Due Date”**).
   2. Seller shall submit to DOEE a complete “Application for Transfer of Stormwater Retention Credit Ownership” relating to the SRCs listed in Section 1 of this Contract no later than \_\_\_ days after the Payment Due Date.
   3. Failure by Buyer to pay Seller the Purchase Price by the Payment Due Date shall constitute a material breach of this Contract by Buyer, entitling Seller to terminate this Contract and seek equitable relief along with any other appropriate relief.
   4. Failure by Seller to submit to DOEE a complete “Application for Transfer of Stormwater Retention Credit Ownership” relating to the SRCs listed in Section 1 of this Contract within \_\_\_ days of the Payment Due Date shall constitute a material breach of this Contract by Seller, entitling Buyer to terminate this Contract and seek equitable relief along with any other appropriate relief.
4. **Representations.** Buyer and Seller each makes the following representations, as applicable:
   1. Buyer and Seller each warrant that the person signing this Contract on its behalf is individually authorized and competent to sign this Contract and to bind each respective Party to the terms hereof. The Parties have read the Contract and agree to be bound by its terms.
   2. Seller owns all interests in the SRCs identified in Section 1 of this Contract.
5. **Terms and Conditions.**
   1. If DOEE issues a letter disapproving the transfer, this Contract shall be terminated.
   2. Buyer shall not be responsible or liable for any personal injury or property damage caused by the stormwater management facilities generating the SRCs, if any.
   3. This Contract and the terms contained in the Contract shall be binding and enforceable against the Parties, and their successors, and assigns for as long as the Contract remains in effect.
   4. If any disputes arise concerning this Contract, including but not limited to enforcement of any term or condition of the contract, the prevailing Party in any action brought for the purpose of enforcing such provisions shall be entitled to recover its reasonable attorney fees, expenses, and costs of such action from the non-prevailing party.
   5. Failure of either Party to enforce any term or condition of this Contract shall not constitute a waiver of that term or condition or of any other term or condition of this Contract.
   6. The Parties agree that a cause of action for breach of any provision of this Contract shall not accrue until the non-breaching Party actually discovers the breach.
   7. If any of the representations of the Parties are false or incorrect, such false or incorrect representation shall, at the other Party’s discretion, constitute a material breach of this Contract.
   8. This Contract shall be governed by and interpreted in accordance with the laws of the District of Columbia.
   9. This Contract may be executed in two or more counterparts, each of which is deemed original, but all constitute one and the same instrument. The Parties agree that a facsimile copy of a signature, including a PDF of such signature, will be deemed original and binding.
   10. This Contract shall be binding upon and inure to the benefit of the successors of the respective Parties hereto.
   11. By executing this Contract, each Party grants DOEE and each other permission to share the price of SRCs and other information embedded in the serial numbers of the SRCs transferred pursuant to this contract.
   12. No amendment, modification, or change to this Contract shall be binding upon the Parties unless such amendment, modification, or change is in writing and executed by the Parties.
   13. This Contract contains the entire understanding between the Parties with respect to the subject matter of this Contract and is intended to be a full integration of all prior or contemporaneous agreements, conditions, understandings, undertakings, warranties, or representations, oral or written, express or implied, between the Parties with respect to the subject matter of this Contract.
   14. In the event that one or more of the provisions of this Contract shall be held to be illegal, invalid, or unenforceable, such provision(s) shall be deemed severable, and the remaining provisions of this Contract shall continue in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed the day and year first above written.

Seller:

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

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

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

Buyer:

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

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

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

**Instructions for Completion of the Template Contract**

**for the Sale of Stormwater Retention Credits**

**Purpose of this Template Contract:** This form is intended to provide the template of a contract for the sale of Stormwater Retention Credits ("SRCs").

**Notes on Use of this Template Contract:** (1) Use of this template contract is not obligatory in order to complete the sale of SRCs. Rather, this template contract is provided as a convenience to prospective buyers and sellers of SRCs to facilitate their execution of SRC transactions. (2) This template contract provides a template for sales transactions involving the one-time transfer of a specified quantity of SRCs in exchange for a stated purchase price, to be paid in a single lump-sum and may not be suitable for other types of SRC transactions. (3) This template contract is not a substitute for the Application for the Transfer of Stormwater Retention Credit Ownership ("Transfer Application"), which must be separately completed and submitted to DOEE as part of every SRC transfer. The Transfer Application is available through the SRC database ([doee.dc.gov/swaccount](ddoe.dc.gov/swaccount)) and in Appendix D to the Stormwater Management Guidebook ([http://doee.dc.gov/swregs](http://ddoe.dc.gov/swregs)). (4) This template contract is governed by and interpreted in accordance with the laws of the District of Columbia. For definitions of technical terms used throughout this template contract, see 21 DCMR § 599.1.

**Instructions and Clarifications**

**Preamble:** Enter the date of the transaction, as well as the name and address of the two parties (buyer and seller) involved in the transaction.

**Section 1 - Purchase and Sale:** In the blank space, enter the total number of SRCs involved in the transaction. This template contract envisions that SRCs involved in a transaction will be contained in one or more consecutively-numbered serial number ranges, and seeks to identify the SRCs involved in the transaction. As such, in the table, complete one row for each range of consecutively-numbered SRCs involved in the transaction. For each range, enter the starting (lowest) and ending (highest) serial numbers of SRCs in the range, the purchase price per SRC for each SRC in the range, the total number of SRCs included in the range, and the total purchase price for all SRCs in the range. The purchase price for all SRCs in the range equals the total quantity of SRCs in the range, multiplied by the purchase price per SRC in the range.

The template contract provides space for up to five (5) ranges or consecutively-numbered SRCs. If more than five ranges are involved in the transaction, they can be included in an Appendix A.

In the bottom row of the table, the total number of SRCs to be transferred equals the sum of the quantities of SRCs in each range, and the total purchase price for the transaction should be the sum of the purchase prices for each range.

**Section 2 - Transfer Date:** Every transfer of SRC ownership is subject to DOEE approval. In order to obtain such approval, Seller must submit a Transfer Application to DOEE. Section 2 of the template contract clarifies that ownership of the SRCs involved in the transaction will not be transferred until DOEE issues its approval of the Transfer Application. Upon approval, DOEE will automatically execute the transfer of SRCs.

**Section 3 - Purchase Price:** Enter the purchase price for the transaction. The purchase price to be entered in Section 3 equals the total purchase price entered in the bottom row of the final column of the table in Section 1. Section 3 clarifies that the Buyer will issue to the Seller a single payment equal to the full purchase price. Specific payment instructions, such as the form of payment, shall be provided in an Appendix B.

**Section 4 - Timing:** **(a)** Enter the date upon which payment of the purchase price, as identified in Section 3, will be due. **(b)** Clarifies that it is the Seller's responsibility to submit a complete Transfer Application to DOEE. Enter the number of days after the payment due date identified in Section 4(a) when the Seller shall be required to submit the Transfer Application to DOEE. **(c)** Clarifies that the Buyer's failure to pay the Seller the Purchase Price by the Payment Due Date shall constitute a material breach of the Contract. **(d)** Clarifies that the Seller's failure to timely submit the Transfer Application to DOEE shall constitute a material breach of the Contract.

**Section 5 - Representations:** **(a)** Buyer and Seller each represent that the individual signing this Contract has authority to enter into this Contract on its behalf. **(b)** Seller represents that it owns all interests in the SRCs involved in the transaction.

**Section 6 - Terms and Conditions:** Contains all terms and conditions of the transaction. Selected terms and conditions contained in this template contract include: **(a)** DOEE's disapproval of the Parties' Transfer Application shall terminate the Contract and relieve both Parties of all obligations. **(h)** The Contract is governed by the laws of the District of Columbia. **(k)** Buyer and Seller each give DOEE permission to share price and other information pertaining to the SRCs involved in the transaction.