

C-PACER [_____] PARTICIPATION AGREEMENT

This C-PACER [_____] Assessment Agreement (“Agreement”), dated as of [_____] is entered into by and between the New Hampshire Business Finance Authority (“**NH BFA**” or “**Program Administrator**”) located at 135 North State Street, Concord, NH 03301 and [_____], a municipal corporation existing under the laws of the State of New Hampshire, with offices located at [_____] (the “[_____]”).

WHEREAS, Senate Bill 4, enacted by RSA 53-F:1, “An Act relative to commercial property assessed clean energy and resiliency” (the “**C-PACER Act**”), authorizes the NH BFA and municipalities and counties that have adopted a C-PACER [_____] (as defined in the C-PACER Act) to establish C-PACER programs under which commercial property owners may finance Qualifying Improvements on Qualifying Property (each as defined in the C-PACER Act) by utilizing a municipal assessment and collection mechanism to provide security for repayment of the financing pursuant to the terms of the C-PACER Act (a “**C-PACER Program**”);

WHEREAS, the NH BFA has developed a C-PACER Program and the [_____] has adopted a C-PACER [_____] for the purpose of establishing and participating in a C-PACER Program;

WHEREAS, pursuant to the C-PACER Act, the [_____] wishes to enter into a contract with the NH BFA to administer certain aspects of the C-PACER Program with respect to Property Owners holding Qualified Property within the [_____];

WHEREAS, the NH BFA is willing to provide certain C-PACER Program administration services for the [_____] under the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the foregoing and the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the NH BFA and [_____] agree as follows:

1. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms under the C-PACER Act and the C-PACER Program Guidebook (the “**Guidebook**”).

2. The NH BFA will provide general marketing services for the C-PACER Program and provide a model C-PACER Ordinance and Resolution, C-PACER Agreements, and forms, documents, and educational materials for use by the [_____] and Property Owners holding Qualifying Property in the [_____]. The NH BFA will provide general program support for Property Owners holding Qualifying Property in the [_____] who make an application for participation in the C-PACER Program.

3. The NH BFA agrees to serve as Program Administrator with respect to C-PACER Program applications submitted by Property Owners holding Qualified Property in the [_____], and administering those aspects of the C-PACER Program specified herein.

4. The NH BFA will review applications of Capital Providers wishing to participate in the C-PACER Program in accordance with the Guidebook and approve such applications that demonstrate the capacity to meet the requirements of the Regulations. The NH BFA will maintain a list of approved Capital Providers available to Property Owners holding Qualifying Property in the [_____].

5. The NH BFA will review applications to the C-PACER Program by or on behalf of Program applicants and shall determine whether the application satisfies the requirements for a Qualifying Property under the C-PACER Act and Guidebook. If the NH BFA determines that the C-PACER application meets the standards and requirements set forth in the C-PACER Act and Guidebook, the NH BFA will certify to the [Municipality/County] on the C-PACER Application that the C-PACER project is eligible.

6. For those Property Owners with a Qualifying Property in the [_____] for which the NH BFA has certified eligibility, the [_____] shall be required to execute a C-PACER Assessment Agreement with the Property Owner pursuant to which the [_____] will agree to place a special assessment on the subject Qualifying Property for repayment of the C-PACER Loan to the Capital Provider. The [_____] shall undertake such actions as required under the C-PACER Assessment Agreement and C-PACER Act as necessary to establish the C-PACER Assessment and Lien and facilitate repayment of the C-PACER Loan to the Capital Provider through the assessment process.

7. The [_____] agrees to comply with the terms of the C-PACER Act and the [_____]'s C-PACER [_____], including, without limitation, procedures on billing and collection of C-PACER Assessments, and the assignment of the C-PACER Lien to the Capital Provider. In accordance with the C-PACER Act, the [_____] agrees to provide to the Property Owner a Certification of Full Payment of the C-PACER Lien upon final payment of the Assessment, including all outstanding interest and charges and any penalties that may become due, and to record a discharge of the lien that is provided by the Capital Provider.

8. Notwithstanding any provision of law to the contrary, staff or board members of the NH BFA, and municipal officers and municipal officials (including, without limitation, tax assessors and tax collectors) are not personally liable to the other, or to any other person, for claims, of whatever kind or nature, under or related to a C-PACER Program established under the C-PACER Act, including, without limitation, claims for or related to uncollected C-PACER Assessments.

9. Pursuant to the C-PACER Act, other than the fulfillment of its obligations specified in a C-PACER Assessment Agreement, neither the NH BFA nor a [] has any liability to a Property Owner or a Capital Provider for or related to Qualifying Improvements financed under a C-PACER Program.

10. The services to be provided by the NH BFA are limited to the services specified herein. The NH BFA assumes no responsibility, and undertakes no liability, for the filing or recording of any required documents or instruments, the perfection of any C-PACER Liens, the terms, performance, or enforcement of any C-PACER Loan, the collection of any C-PACER Assessments, any C-PACER Loan servicing or recordkeeping, the collection of delinquent accounts, or any other matters between the Property Owner, the Capital Provider, and the [].

11. The [Municipality/County] may submit to the NH BFA, on a form provided by the NH BFA, for reimbursement of any actual expenses incurred by the [] in the performance of the []'s duties under the C-PACER Act. Reimbursement is subject to, and limited by, the fees and charges collected from the Property Owner that the NH BFA collects expressly for this purpose.

12. The [] shall be the designated [] Program Official responsible for: executing the appropriate documentation for the imposition of the special assessment; working with the NH BFA; and administering the duties and responsibilities of the [] set forth in this Agreement.

13. This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all previous discussions, understandings and agreements between the Parties relating to the subject matter of this Agreement. If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section has not been contained in it.

14. The term of this Agreement shall commence on the date first written above and shall continue until the [] discontinues participation in the C-PACER Program with sixty (60) days' written notice to the NH BFA, provided that the obligations of the [] under this Agreement shall continue to apply to C-PACER Loans, C-PACER Liens, and C-PACER Assessments in place prior to the termination date.

IN WITNESS WHEREOF, the [_____] and the NH BFA have each caused this Agreement to be executed and delivered as of the date first written above.

[_____]:

By: _____

Printed Name: _____

Title: _____

Duly Authorized

Witness: _____

Printed Name: _____

Date

New Hampshire Business Finance Authority:

Jeremy Stanizzi
C-PACER Program Administrator

Witness: _____

Printed Name: _____

Date