

## Exhibit A: Model Purchase and Sale Contract For Bid Solicitation 255156

### Model Purchase and Sale Contract

This Model Purchase and Sale Contract (this “Agreement”) is entered into as of (DATE) (the “Effective Date”) and is by and between the South Carolina Public Service Authority (“Santee Cooper”), a body corporate and politic created by an act of the South Carolina State Legislature, and \_\_\_\_\_ (“Buyer”). For the purposes of this Agreement, Santee Cooper and Buyer shall sometimes be referred to herein collectively as “Parties” and individually as a “Party”.

#### **RECITALS**

WHEREAS, Santee Cooper desires to sell a lot of new and used Entek T260 Switches (hereinafter, the “Equipment”) and

WHEREAS, Buyer would like to purchase the Equipment, subject to the terms and conditions set forth herein,

NOW, THEREFORE, for performance of the mutual covenants and promises contained herein, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

#### **AGREEMENT**

##### **Section 1 – Purchase and Sale of Equipment; Removal**

**1.1 Purchase and Sale of Equipment.** Santee Cooper shall sell, and Buyer shall purchase the Equipment specified in the Bid Solicitation. Buyer shall have the Equipment removed from Santee Cooper’s property no later than the date specified between the Seller and the Buyer (the “Equipment Removal Date”). Buyer shall make all arrangements for the loading and shipping of the Equipment. Risk of loss or damage to the Equipment shall pass to the Buyer when Buyer commences loading the Equipment.

**1.2 Removal.** The Parties agree that Buyer shall remove the Equipment purchased hereby from Santee Cooper’s property by the Equipment Removal Date (provided Santee Cooper has not prevented Buyer from doing so) and time shall be of the essence with respect to such removal. Buyer acknowledges and agrees that its failure to remove such Equipment by the Equipment Removal Date shall constitute Buyer’s abandonment of the Equipment and a waiver of any recourse by Buyer against Santee Cooper including any right or remedy it may have in law or equity for recovery of the property, its purchase price or any claim for damages of any kind.

- 1.3 **Warranty.** Santee Cooper warrants that it has full authority to sell the Equipment. The Equipment is sold “AS IS/WHERE IS” and Santee Cooper makes no warranties or representations (other than as to authority to sell) with respect to the Equipment, whether statutory, express or implied (including any warranties of merchantability and fitness for a particular purpose or arising out of any course of dealing or usage of trade). Any description of the Equipment contained in any document relating to this sale is for reference purposes only and is not intended to be construed as a warranty relating to condition or completeness. Santee Cooper specifically disclaims any warranty relating to the condition or completeness of the Equipment.
- 1.4 **Inspection.** Buyer agrees that Santee Cooper has provided Buyer full and adequate opportunity to inspect the Equipment. Buyer is satisfied that, based upon its inspection or voluntary failure to inspect, that it understands the condition and other characteristics of the Equipment and that the Equipment conforms in all material respects to the description in the Equipment Schedule.

## Section 2 – Indemnification and Insurance

- 2.1 **Indemnification of Buyer.** Buyer shall indemnify, hold harmless and defend Santee Cooper its agents and employees from and against any cost, liability, claim, damages, or expense (including reasonable attorneys’ fees, fines and penalties) assessed, incurred or sustained by or asserted against Santee Cooper to the extent arising out of or connected with (i) the performance or nonperformance of this Agreement by Buyer or (ii) ownership, removal, handling or use of the Equipment purchased under this Agreement, regardless of whether caused by the negligence of Buyer, its contractors, suppliers, agents, employees, or otherwise. Buyer shall at its own expense, defend any and all actions based upon the claims described in this paragraph and pay all attorney fees, costs and expenses arising therefrom.
- 2.2 **Assumption of Risk.** Buyer assumes all risk and responsibility for injury or damage to Buyer or its employees or agents, any of its subcontractors or any person, firm, or corporation employed or engaged by Buyer arising out of ownership, possession, removal, handling or use of the Equipment purchased under this Agreement.
- 2.3 **Limitation.** Under no circumstances shall either Party be liable to the other for any special indirect or consequential loss or damage whether or not such loss or damage is caused by the fault or negligence of such Party, its employees, agents, or subcontractors of any tier.
- 2.4 **Insurance.** Without limiting any of the other obligations or liabilities of the Buyer, the Buyer shall provide and maintain throughout this Agreement, insurance coverage as follows:

a. Workers' Compensation.

i. Statutory - Subject to the laws of the State of South Carolina

ii. Employer's Liability -

(a) Bodily injury by accident - \$500,000 each accident

(b) Bodily injury by disease - \$500,000 each employee

b. Commercial General Liability - Occurrence Form with a minimum \$1,000,000 limit - Bodily injury/property damage unless checked below:

\$2,000,000 minimum limits required

If commercial general liability coverage is provided:

**Coverage A** should include premises, operations, products and completed operations, independent contractors, contractual liability covering this agreement or contract, (subject to the policy terms and conditions), damage to premises rented to you and broad form property damage coverages.

**Coverage B** should include personal injury and advertising injury.

**Coverage C** should include medical payments.

c. Business Automobile Liability - Minimum Limit of \$500,000 - bodily injury and property damage, unless checked below:

\$1,000,000 minimum limits required

Automobile Liability coverage is to include bodily injury and property damage arising out of operation, maintenance or use of any auto, including owned, non-owned and hired automobiles and employee non-ownership use.

**2.5 Certificates of Insurance.**

a. Certificates of such insurance are to be provided to Santee Cooper before the provision of any services under this Agreement. Buyer shall notify Santee Cooper at least thirty (30) days in advance of any policy cancellation or adverse change. New certificates of insurance are to be provided to Santee Cooper at least fifteen (15) days prior to coverage renewals.

b. Receipt of certificates or other documentation of insurance or policies or copies of policies by Santee Cooper which indicate less coverage than required does not constitute a waiver of Buyer's obligation to meet the insurance requirements herein.

c. Santee Cooper shall be an additional insured on the general liability and automotive insurance policies.

### Section 3 – General Provisions

- 3.1 **Governing Law.** This Agreement shall be governed by South Carolina law regardless of the place of execution. Any dispute in connection with this Agreement including its validity, shall be exclusively submitted to the Court of Common Pleas of Berkeley County, South Carolina with subsequent jurisdiction to any appellate courts therefrom.
- 3.2 **Subcontractors.** Buyer shall not subcontract its obligations under this Agreement without the prior written consent of Santee Cooper. Buyer shall require any subcontractor to maintain the insurance required of Buyer hereunder.
- 3.3 **Notices.** All notices given under this Agreement must be in writing. Each party must accept and claim the notices given by the other. Unless otherwise provided by law, notices may be given by courier service. Notices shall be effective on receipt (in case of personal delivery), two (2) business days after deposit in the mail (in case of certified mail), or on the date of confirmation of delivery (in the case of overnight courier service) and shall be addressed and directed to the Party to receive it as follows:

As to Santee Cooper  
South Carolina Public Service Authority  
One Riverwood Drive  
Mail Code: SB05  
Moncks Corner, SC 29461  
ATTN: Manager, Investment Recovery

As to Buyer:  
Company Name:  
Address  
ATTN:

- 3.4 **Assignment.** This Agreement shall inure to the benefit and be binding on the Parties, successors, and legal representatives of the Parties. This Agreement shall not be assigned, in whole or in part, except upon the written consent of the non-assigning Party, which shall not be unreasonably held.
- 3.5 **Severability.** If any provision of this Agreement is held invalid or unenforceable by a court of law or regulatory agency with jurisdiction over the Parties, or deemed unlawful because of a statutory change, it is the intent of the Parties that such provision or portion thereof shall be modified or deleted in such a manner so as to make such provision or portion thereof, as modified, legal, and enforceable to the fullest extent permitted under applicable law, and, notwithstanding such modification or deletion, all other provisions of this Agreement shall be construed to remain fully valid, enforceable,

and binding on the Parties, provided that no such modification or deletion shall be made if it materially changes the economic benefit of this Agreement to either Party.

- 3.6 **Waiver.** Waiver of any specific terms or conditions of this Agreement does not constitute a general waiver or amendment to this Agreement, nor the relinquishment of any rights under this Agreement.
- 3.7 **Force Majeure.** Delays or failure of either Party in the performance of its obligations, other than the payment of any amounts due and payable under this Agreement, shall be excused if and to the extent caused by circumstances beyond the reasonable control of the Party affected, including, but not limited to, fire, flood, storm, or other acts of God, explosion, riot, war, sabotage, or strikes, provided that prompt notice of such delay is given and the Party affected is diligent in attempting to remove such cause, except that each Party shall be entitled to resolve any of its own strikes in its own sole discretion. For the avoidance of doubt, the failure of a Party's contractor or agent to perform shall not constitute an event of force majeure unless the event which caused such contractor or agents failure was itself beyond the reasonable control of such contractor or agent, prompt notice of the delay was given, and such contractor or agent was diligent in attempting to remove such cause, except that said contractor or agent shall be entitled to resolve any of its own strikes in its own sole discretion. If the event of a delay or failure of a Party extends for sixty (60) days or longer, the Party not declaring Force Majeure may terminate this Agreement thereafter upon written notice to the other.
- 3.8 **Relationship of the Parties.** Nothing contained in this Agreement shall be construed as creating the relationship of principal and agent, a partnership, or joint venture between the Parties.
- 3.9 **Confidentiality.** Buyer and Santee Cooper agree to retain in confidence, to the extent permitted by law, this Agreement and any information obtained as a result of negotiation and performance of this Agreement which either Party identifies to the other as being proprietary in nature. It is agreed, however, that such information may be disclosed to each Party's attorneys, auditors, accountants, and consultants who also agree to such confidentiality. Further, notwithstanding any other provision of this Agreement, disclosure of confidential or proprietary information shall not be precluded if such disclosure (a) is in response to a valid order of a court or other governmental body, including the South Carolina Freedom of Information Act to which Santee Cooper is subject; provided, however, that the responding Party shall first have given notice to the other Party hereto; (b) is otherwise required by law; or (c) is otherwise necessary to establish rights or enforce obligations under this Agreement, but only to the extent that any such disclosure is necessary.
- 3.10 **Headings.** The headings of this Agreement are for convenience only and shall not be considered in construing this Agreement.



3.11 **Taxes and Permits.** Each Party shall be responsible for paying all taxes, levies, governmental impositions, assessments, fees, and other governmental charges, and for securing in a timely manner all permits and licenses applicable to the performance of its obligations under this Agreement.

3.12 **Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties regarding its subject matter. No change or addition may be made to this Agreement except by written amendment executed by the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of this day and year first above written.

**SOUTH CAROLINA PUBLIC SERVICE AUTHORITY "SANTEE COOPER"**

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

George Rheubottom  
Manager, Investment Recovery

**Buyer Information**

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

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

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



**Equipment Schedule**  
**Purchase and Sale Contract for Bid Solicitation #255156**

This **Equipment Schedule** is pursuant to and subject to the terms and conditions of Purchase and Sale Contract for Bid Solicitation #255156 between Santee Cooper and (BUYER) (“Buyer”), which is effective as of (EFFECTIVE DATE).

A. Description of Equipment. Santee Cooper agrees to sell, and Buyer agrees to purchase the following Equipment (**NOTE: All equipment offered below is being sold as a single “lot”**):

<u>Item No.</u>	<u>Quantity</u>	<u>Description</u>	<u>Voltage</u>
1.	1,566	Entek T-260-WH Switches (New)	240V
2.	92	Entek T-260-WH Switches (Used)	240V
3.	3,834	Entek T-260-WH/HVAC Switches (New)	240V/24V
4.	347	Entek T-260-WH/HVAC Switches (Used)	240V/24V

B. Place and Time of Removal. Buyer shall remove the Equipment from Santee Cooper’s Investment Recovery located at 305A Gardner Lacy Road, Myrtle Beach, SC 29579 after Santee Cooper receives: (1) the signed Purchase and Sale Contract and (2) payment. Buyer shall remove Equipment from Santee Cooper’s property no later than thirty (30) days after both Parties have signed the Purchase and Sale Contract.

C. Price. As full and complete compensation for the Equipment described above, Buyer agrees to pay Santee Cooper the following **total price for the entire single lot of equipment offered**:

Description	Quantity	Total Lot Price
Entek T-260-WH Switches (New)	1,566	\$ _____
Entek T-260-WH Switches (Used)	92	
Entek T-260-WH/HVAC Switches (New)	3,834	
Entek T-260-WH/HVAC Switches (Used)	255	

D. Payment.

The total price specified above shall be due ten (10) days after the Buyer has been notified of award. Payment must be received by Santee Cooper prior to Buyer removing the Equipment.

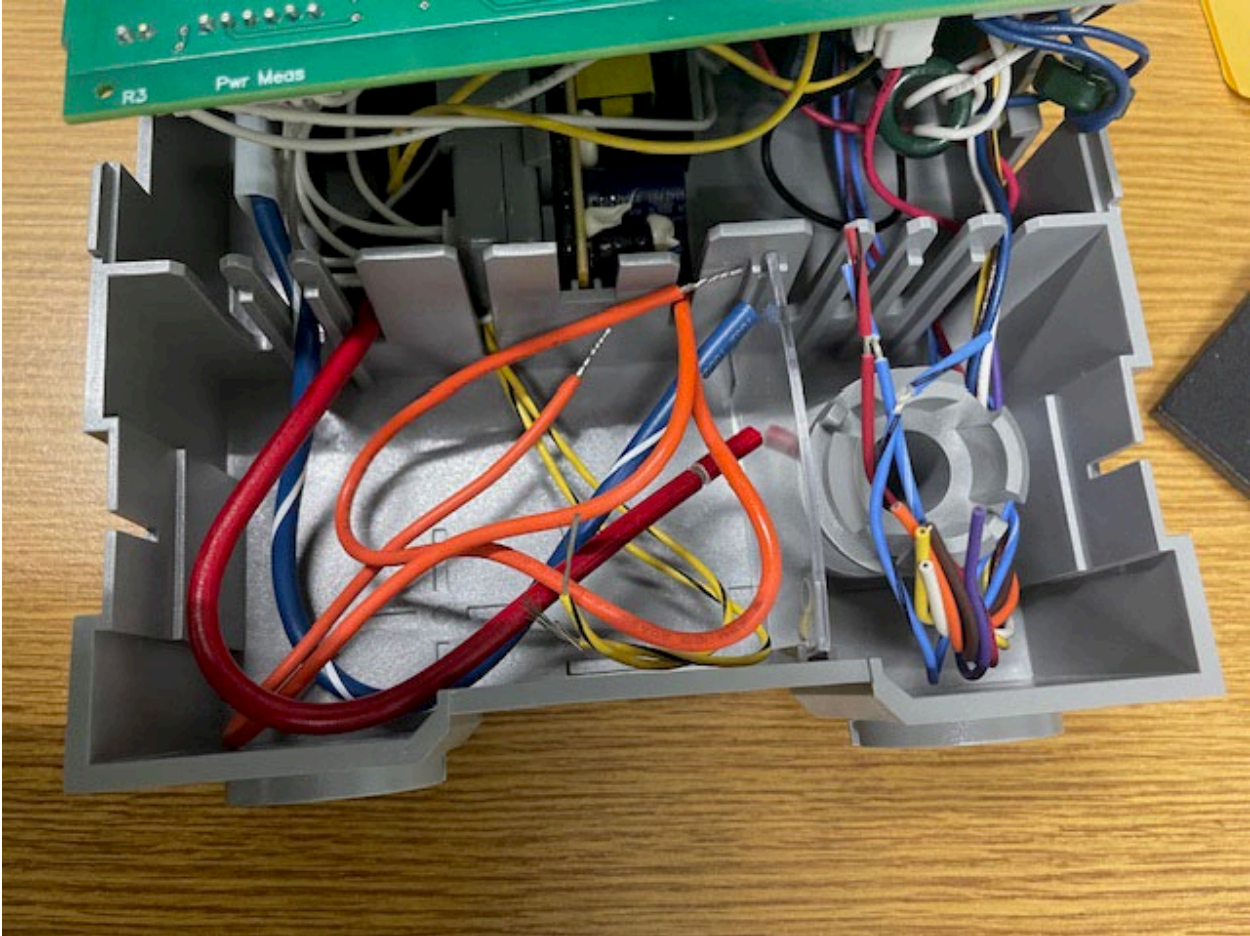
E. Equipment Removal Date

The Equipment Removal Date shall be no later than thirty (30) days after both Parties have signed the Purchase and Sale Contract.





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