

represented by the requesting party, (ii) there are no uncured defaults in either party's performance, and (iii) no more than one month's rent has been paid in advance.

(h) No Option. The submission of this Agreement for examination or consideration does not constitute a reservation of or option for the Premises. This Agreement will become effective as an Agreement only upon the legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

List of Exhibits to Agreement

Attachment 1 — Description of the Premises —
Attachment 2 — Termination Payment Schedule

IN WITNESS WHEREOF, the Parties have executed this Lease under seal as of the Effective Date.

Landlord

Town of Maynard, Massachusetts

By: David S. Itri
, Selectman

By: Robert J. Gendron
, Selectman

By: Robert J. Gendron
, Selectman

By: Dan Caple
, Selectman

By: _____
, Selectman

Approved as to Form: _____

By: _____
, Esq.
Town Counsel

Date: _____

Tenant

EPG Solar, LLC

By: _____

Name: Robert S. Babcock

Title: Chief Executive Officer

Date: _____

ATTACHMENT 1
Description of the Premises

ATTACHMENT 2 *TERMINATION PAYMENT SCHEDULE*

Early Termination Occurs in Year:	Early Termination Fee (including costs of removal) in \$ per Watt installed	Early Termination Fee (excluding costs of removal) in \$ per Watt installed
6	3.91	3.61
7	3.58	3.28
8	3.25	2.95
9	2.92	2.62
10	2.59	2.29
11	2.26	1.96
12	2.15	1.85
13	2.04	1.74
14	1.93	1.63
15	1.83	1.53
16	1.72	1.42
17	1.32	1.32
18	1.52	1.22
19	1.41	1.11
20	1.31	1.01
Upon Extension	To Be Determined	To Be Determined
At expiration	\$0	\$0

NET METERING POWER SALES AGREEMENT

This Net Metering Power Sales Agreement ("*Agreement*") is entered into this ___ day of December, 2011 (the "*Effective Date*") and is by and between EPG Solar, LLC (and its successors and assigns), as seller ("*Seller*"), and the Town of Maynard, a municipal corporation having its principal office at 195 Main Street, Maynard, Massachusetts, as buyer ("*Buyer*"). In this Agreement, Seller and Buyer are sometimes referred to individually as a "*Party*" and collectively as the "*Parties*."

RECITALS

WHEREAS, Buyer owns the real Property located at the approximately fourteen (14) acre landfill site on Waltham Street, Maynard, Massachusetts (the "*Property*");

WHEREAS, Buyer desires to purchase solar-generated electricity for use by Buyer, and proposes to lease a portion of the Property (the "*Premises*") to facilitate the development and operation of a solar power electric generation facility ("the Solar Energy Facility");

WHEREAS, Seller is in the business of financing, developing, owning, operating and maintaining solar power electric generation facilities;

WHEREAS, Seller proposes to finance, install, own, operate and maintain the Solar Energy Facility on the Premises;

WHEREAS, Buyer proposes to lease to Seller the Premises to allow Seller to construct, operate, maintain and remove the Solar Energy Facility on the Premises; and

WHEREAS, Seller desires to sell and deliver to Buyer, and Buyer desires to purchase and receive from Seller, all of the Net Energy generated by the Solar Energy Facility during the Term, subject to the terms and conditions, and at the prices, set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual premises, representations, warranties, covenants, conditions herein contained, and the Exhibits attached hereto, Seller and Buyer agree as follows.

ARTICLE 1 DEFINITIONS

When used in this Agreement, the following terms shall have the meanings given below, unless a different meaning is expressed or clearly indicated by the context. Words defined in this Article I which are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

"Affiliate" means, with respect to Seller, (i) each Person that, directly or indirectly, controls or is controlled by or is under common control with Seller; (ii) any Person that beneficially owns or holds ten percent (10%) or more of any class or voting securities of Seller or ten percent (10%) or more of the equity interest in Seller; or (iii) any Person of which Seller beneficially owns or holds ten percent (10%) or more of the equity interest. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of Seller, whether through the ownership of voting securities or by contract or otherwise.

"Applicable Legal Requirements" means any present and future law, act, rule, requirement, order, by-law, ordinance, regulation, judgment, decree, or injunction of or by any Governmental Authority, ordinary or extraordinary, foreseen or unforeseen, and all licenses, permits, and other governmental consents, which may at any time be applicable to a Party's rights and obligations hereunder, including, without limitation, the construction, operation, ownership, maintenance, repair, decommissioning and removal of the Solar Energy Facility, as well as the selling and purchasing of power from the Solar Energy Facility.

"Appraised Value" means the fair market value assigned to the Solar Energy Facility, the Environmental Attributes, and any other power sales agreements, emission trading agreements, renewable energy certificate sales agreements or revenue producing agreements to which Seller is a party and which are not subject to contractual limitations on assignment or which may reasonably arise from the ownership and operation of the Solar Energy Facility, as determined by the Independent Appraiser (collectively, the **"Assets"**).

"Assets" has the meaning set forth in the definition of Appraised Value.

"Base Energy Cost" the total delivered cost for energy, in \$/kWh, to the buyer.

"Business Day" means a day on which Federal Reserve member banks in Boston are open for business; and a Business Day shall open at 8:00 a.m. and close at 5:00 p.m. Eastern Prevailing Time.

"Commercial Operation Date" means the date on which the results of testing indicate that the Photovoltaic Energy Facility is capable of generating electric energy for four (4) continuous hours, using such instruments and meters as have been installed for such purposes, and the interconnection to the local electrical grid and all review and approvals have been provided by the applicable local electric utility, the applicable local electric utility has provided Seller with permission to operate the Photovoltaic Energy Facility and Seller has provided written notice to Buyer to that effect, but in no event later than the Commercial Operation Deadline.

"Commercial Operation Deadline" means the date which is three hundred and sixty-five (365) days after the Effective Date of this Agreement provided, however, that the Commercial Operation Deadline shall be extended on a day-for-day basis for any Force Majeure, any breach of this Agreement by Buyer occurring after the Effective Date and prior to the Commercial Operation Date, or, if the Commercial Operation Deadline has been reached and Seller is actively pursuing the interconnection process under the Tariff or permitting with MassDEP.

"Commercially Reasonable" means any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence, should have been known, at the time the decision was made, would have been expected to accomplish the desired result consistent with reliability, safety, expedition, project economics and applicable law and regulations in the southern New England region. The term "Commercially Reasonable" is not intended to be limited to consideration of any one practice, method or act, to the exclusion of all others, but rather, is intended to require the consideration of a spectrum of possible practices, methods or acts.

"Confidential Information" means all oral and written information exchanged between the Parties which contains proprietary business or confidential information of a Party, and is designated as "confidential" by such Party. The following exceptions, however, do not constitute Confidential

Information for purposes of this Agreement: (a) information that is or becomes generally available to the public other than as a result of a disclosure by either Party in violation of this Agreement; (b) information that was already known by either Party on a non-confidential basis prior to this Agreement; (c) information that becomes available to either Party on a non-confidential basis from a source other than the other Party if such source was not subject to any prohibition against disclosing the information to such Party; and (d) information a Party is required to disclose in connection with any administrative or regulatory approval or filing process in connection with the conduct of its business or in accordance with any statute or regulations. In connection with the above, the Parties acknowledge that notwithstanding the above, Buyer is a public entity which is subject to certain public records disclosure statutes and regulations.

"Contract Year" means the consecutive 12-month period commencing on the Full Operations Date.

"Effective Date" means the date set forth in the introductory paragraph of this Agreement.

"Environmental Attributes" has the meaning set forth in Section 4.6.

"Energy" means the amount of electricity either used or generated over a period of time, expressed in terms of kilowatt hour ("kWh") or megawatt hour ("MWh"). Energy shall not include capacity credits, credits for Environmental Attributes, or any investment or production tax credits available under federal or state law, including but not limited to Section 45 of the Internal Revenue Code, or otherwise, to the extent that the Solar Energy Facility receives or is entitled to receive any such credits.

"Energy Retail Rate" shall mean that price which the Buyer would pay to the local electric distribution company without the benefit of Net Metering or a long term or bulk contract.

"Event of Default" means any event of default as defined in Article VIII of this Agreement.

"Financier" means any individual or entity providing money or extending credit to Seller for the purpose of procuring, constructing, owning, operating, maintaining, repairing, decommissioning or removing the Solar Energy Facility, including, but not limited to: (i) the construction, term or permanent financing of the Solar Energy Facility; or (ii) investment capital, working capital or other ordinary business requirements for the Solar Energy Facility (including the maintenance, repair, replacement or improvement of the Solar Energy Facility); or (iii) any development financing, bridge financing, credit support, credit enhancement or interest rate protection in connection with the Solar Energy Facility. Financier shall include any entity through which Seller has a lien in connection with the Solar Energy Facility. "Financier" shall not include common trade creditors of Seller.

"Force Majeure" means any cause not within the reasonable control of the affected Party which precludes that Party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God; high winds, hurricanes or tornados (but not the lack of sun); fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes; lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any Governmental Authority acting in its regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by Buyer may not be asserted as an event of *Force Majeure* by Buyer; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil

disturbances or explosions. A Party may not assert an event of *Force Majeure* to excuse it from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of either Party shall not constitute an event of *Force Majeure*.

"Governmental Authority" means any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity.

"Governmental Charges" means all applicable federal, state and local taxes (other than taxes based on income or net worth or real estate or personal property taxes, but including, without limitation, sales, use, gross receipts or similar taxes), governmental charges, emission allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, local electric distribution company, or other similar entity, on or with respect to the Net Energy generated by the Solar Energy Facility.

"Guaranteed Annual Electric Output" means the minimum amount of Net Energy that is guaranteed by Seller to be generated by the Solar Energy Facility for sale and delivery to Buyer in any Contract Year, as set forth in Exhibit C.

"Host Customer Costs" shall mean the cost of performing all of the Host Customer's obligations under the Interconnection Agreement or the Tariff, such as those pertaining to the provision of insurance, and the reading or testing of meters, but specifically excluding all costs associated with the design, construction, or installation of facilities or metering devices necessary for interconnecting the Solar Energy Facility to the NSTAR electric power system (via the Host Customer), or any upgrade of to the electric system of NSTAR's that is necessary for the delivery of Net Energy to the NSTAR electric power system.

"Independent Appraiser" means an individual who is a member of a national accounting, engineering or energy consulting firm qualified by education, certification, experience and training to determine the Appraised Value of solar energy generating facilities of the size and age and with the operational characteristics of the Solar Energy Facility. Except as may be otherwise agreed by the Parties, the Independent Appraiser shall not be (or within three years before his appointment have been) a director, officer or employee of, or directly or indirectly retained as consultant or adviser to, Seller, any Affiliate of Seller, or Buyer.

"Interconnection Agreement" shall mean the Interconnection Service Agreement entered into with NSTAR which authorizes the interconnection of the Solar Energy Facility with the local electric distribution system of NSTAR, which confirms the eligibility of Solar Energy Facility for treatment as a Class III Municipal Solar Net Metering Facility, and which specifies whether any Net Excess Generation (as defined in the Tariff) shall be subject to allocation or cash-out.

"Interest Rate" means .05% fixed interest rate per month Interest shall be calculated daily on the basis of a year of three hundred sixty five (365) days and the actual number of days for which such interest is due.

"ISO-NE" means the independent system operator established in accordance with the NEPOOL Agreement (the Second Amended and Restated New England Power Pool Agreement dated as of February 1, 2005) and the Interim Independent System Operator Agreement as amended, superseded or restated from time to time.

"kW" means Kilowatt.

"kWh" means Kilowatt hour.

"Lease" means the Site Lease Agreement executed between the Parties of even date herewith, as such Lease may be amended from time to time.

"Metering Device" means any and all revenue quality meters installed by Seller or NSTAR after the Point of Delivery necessary or appropriate for the delivery of Energy into the NSTAR local electric distribution system and (except for the Net Metering Device) the calculation of Net Metering Credits.

"MW" means Megawatt.

"MWh" means Megawatt hour.

"NSTAR" means NSTAR USA, the local electric distribution company for Buyer, or its successor.

"NEPOOL" means the New England Power Pool and any successor organization.

"Net Energy" means the actual and verifiable amount of Energy generated by the Solar Energy Facility and delivered to Buyer at the Point of Delivery in excess of any Energy consumed by the Solar Energy Facility, as metered in kilowatt-hours (kWh) at the Net Metering Device, and that conforms to Applicable Legal Requirements and the Tariff.

"Net Metering" means the process of measuring the difference, in kWhs, between electricity delivered by a local electric distribution company and electricity generated by a net metering facility and fed back to the local electric distribution company, as set forth under M.G.L. c. 164, § § 13 8 — 140 and 220 C.M.R. § 18.00, as may be amended from time to time by a Governmental Authority.

"Net Metering Credits" shall have the meaning set forth in 220 C.M.R. § 18.00, as implemented by the Tariff

"Net Metering Device" means any and all revenue quality meters installed by Seller at or before the Point of Delivery necessary or appropriate for the registration, recording, and transmission of information regarding the amount of Net Energy generated by the Solar Energy Facility and delivered to the Point of Delivery for sale to Buyer.

"Parties" means Buyer and Seller, and their respective successors and permitted assignees.

"Party" means Buyer or Seller, and their respective successors and permitted assignees.

"Permits" means all federal, state and local authorizations, certificates, permits, licenses and approvals required by any Governmental Authority for the construction, operation and maintenance of the Solar Energy Facility, including, but not limited to, a special permit for a Solar Energy Conversion

System under Maynard Zoning Bylaw, an Interconnection Agreement as defined in the Tariff or as otherwise approved (and currently valid) by the Massachusetts Department of Public Utilities, and construction related permits.

"Person" means an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trusts, unincorporated association, joint venture, or other business entity.

"Point of Delivery" means the point of delivery for Net Energy from Seller to Buyer, as further set forth on Exhibit C.

"Premises" shall have the meaning set forth in the Lease, and as set forth in Exhibit A.

"Production Shortfall" means the amount, expressed in kWh, by which the actual amount of Net Energy generated by the Solar Energy Facility and sold to Buyer in any Contract Year is less than the Guaranteed Annual Electric Output for that Contract Year.

"Solar Energy Facility" means the solar power electrical generation facility to be constructed owned, operated and maintained by Seller, with specifications for an aggregate nameplate capacity of up to one and one half (1.5) megawatts of photovoltaic generation, together with all appurtenant facilities, including, but not limited to, the Net Metering Device, Metering Device and any interconnection facilities, and transformers required to interconnect the Solar Energy Facility to the Point of Delivery and the NSTAR local electric distribution system, and any and all Substantial Alterations, additions, replacements or modifications thereto, all to be located on or adjacent to the Premises and as further set forth in Exhibit B.

"Solar Net Metering Facility" shall have the meaning set forth in 220 C.M.R. § 18.00.

"Substantial Alteration" has the meaning set forth in the Lease.

"Tariff" means the NSTAR tariffs M.D.P.U. No. 1176 and M.D.P.U. No. 1177 for interconnection for distributed generation and net metering services, as approved in DPU Docket 09-72, and any subsequent amendments and approvals thereto.

ARTICLE 2

TERM

2.1 Term.

a. The term of this Agreement (the **"Term"**) shall commence on the date so noted above as the Effective Date, and shall end at the earlier of (i) 11:59 PM on the day preceding the twentieth (20th) anniversary of the Commercial Operation Date (the **"Termination Date"**), or (ii) such date as of which this Agreement may be earlier terminated pursuant to the provisions hereof.

Subject to the right granted herein to Buyer to purchase the Solar Energy Facility, and provided that this Agreement has not been earlier terminated pursuant to the provisions herein, Buyer may request to extend the Term of this Agreement, subject to compliance with all applicable laws, for up to one additional term of ten (10) years upon the expiration of the then Term by giving Seller at least two hundred seventy (270) days prior written notice of its desire to extend the Term.

2.2. Early Termination. Either Party may terminate this Agreement without penalty or any liability to the other Party prior to the achievement of the Commercial Operation Date only as specified below:

a. in the event that Seller has not obtained all required Permits or third party approvals required for the lawful construction, ownership and operation of the Solar Energy Facility within nine (9) months from the Effective Date, despite Seller's diligent efforts to obtain same, and, in its reasonable opinion, deems it unlikely that such required Permits or third party approvals will not be forthcoming, Seller may terminate this Agreement; or

b. in the event that the Commercial Operation Deadline has been reached and the Commercial Operation Date has not been achieved, Buyer may terminate this Agreement; or

c. in the event that the Seller is unable to secure, despite Seller's diligent efforts, at reasonable cost to Seller, all required interconnection arrangements with NSTAR, including any final acceptance and authorizations as may be required from ISO-NE and NSTAR to interconnect the Solar Energy Facility with the transmission facilities owned by NSTAR, then Seller may terminate this Agreement; or

d. in the event that any conditions placed on the Solar Energy Facility by MassDEP in order to construct the Solar Energy Facility are such that the Project is no longer viable taking into consideration that the Seller entered into the Agreement with full knowledge that the project was on a landfill, then Seller may terminate this Agreement.

In the case of termination pursuant to any of subsections (a) and (d) above, the terminating Party shall give the other Party thirty (30) days prior written notice of its intent to terminate within thirty (30) days after the occurrence of the applicable deadline. In the event that a Party fails to provide such, the Party shall be deemed to have waived its right to terminate under the applicable subsection in question. Notwithstanding any other provision of this Agreement, the Parties acknowledge and agree that the deadlines set forth above may be extended for a period of time that is mutually agreed upon in writing.

ARTICLE 3 FACILITY OWNERSHIP, INSTALLATION, OPERATION, MAINTENANCE, AND REMOVAL

3.1 Title. Except as otherwise set forth in this Agreement or the Interconnection Agreement, as between the Parties during the Term of this Agreement, title to all equipment, Permits, authorizations, Energy, Environmental Attributes, and tax benefits associated with the Solar Energy Facility shall be with Seller.

3.2 Lease. Seller shall construct, operate, maintain, repair and remove the Solar Energy Facility on the Premises pursuant to and in conformance with the Lease.

3.3 Construction, Maintenance, and Monitoring of Solar Energy Facility. Seller, at its sole cost and expense shall:

a. design, finance and procure the Solar Energy Facility in an expeditious manner with due regard for Buyer's desire and need to purchase any energy produced thereby as soon as practicable and in no event later than the Commercial Operation Date;

b. apply for, diligently pursue, pay for, and negotiate to final form the Interconnection Agreement. Notwithstanding the foregoing, the Seller shall at all times and in good faith work with the Buyer to assure Buyer that the terms of the Interconnection Agreement are reasonably satisfactory to the Buyer. Seller acknowledges that it understands that the Buyer prefers that NSTAR provide remuneration to the Buyer in the form of cash over credits to the extent allowed by law;

c. design, construct, own, operate and maintain (except when otherwise expressly required by NSTAR) the Metering Device, Net Metering Device, and other facilities or equipment, and procure and maintain all insurance, required by NSTAR under the Interconnection Agreement or otherwise;

d. construct, own, operate, and maintain the Solar Energy Facility in good condition and repair, all in accordance with Applicable Legal Requirements and industry standards, applicable contractor, subcontractor and vendor warranties or guarantees, manufacturer's warranties, instruction and specifications, applicable requirements of the insurance policies maintained by Seller with respect to the Solar Energy Facility as set forth in the Lease, and the terms of this Agreement; and

e. monitor the Solar Energy Facility performance to ensure that any malfunction causing a material loss of Energy production will be promptly discovered and rectified in accordance with industry standards. Monitored data shall be made available by the Seller to the Buyer in real time and for historical data analysis purposes.

f. rectify a Solar Energy Facility production shortfall from normal of 30% or more. Effort will be made to restore The Solar Energy Facility to full output within 2 weeks of a production shortfall caused by something other than weather conditions, being recognized.

3.4 Operations Manual; Training. On the Commercial Operations Date, Seller shall deliver to Buyer an operations, maintenance and parts manual covering the Solar Energy Facility. In addition, Seller will train Buyer's representative(s) on business-as-usual monitoring operations of the Solar Energy Facility and on emergency preparedness and response. Notwithstanding the foregoing, Buyer shall have no right to perform any maintenance or repair on the Solar Energy Facility without Seller's prior written consent, except in the case of an emergency where immediate action on the part of Buyer is reasonably necessary for safety reasons or as otherwise permitted under the Lease, *provided, however*, Buyer's representatives shall at all times comply with all safety and other operating procedures reasonably established by Seller and all Applicable Legal Requirements.

3.5 Notice of Commercial Operation Date. Subject to the provisions of this Agreement, Seller shall notify Buyer when the Solar Energy Facility has achieved the Commercial Operation Date.

3.6 Removal of Solar Energy Facility. Except as otherwise provided herein, Seller shall, within ninety (90) days following the end of the Term and at Seller's sole cost and expense, remove the Solar Energy Facility from the Premises and restore the Premises to its original condition, normal wear and tear excluded. On or before the Commercial Operation Date Seller shall provide a form of security reasonably acceptable to Seller and Buyer, but in no event less than \$250,000.00, to secure the removal of the System at the end of this Agreement in the event the Seller does not comply with the provisions hereof.

ARTICLE 4
PURCHASE AND SALE OF NET ENERGY

4.1 Sale and Purchase of Net Energy. Commencing on the Commercial Operations Date, Seller agrees to sell and deliver, and Buyer agrees to purchase and accept, at the Point of Delivery one hundred percent (100%) of the Net Energy generated by the Solar Energy Facility.

4.2 Price. Buyer shall pay Seller for the Net Energy sold and delivered, as metered at the Net Metering Device at or before the Point of Delivery, at the applicable Net Energy Price, as set forth in Exhibit C. Monthly, Seller shall calculate the amount of energy generated by the Solar Energy System and delivered to the Delivery Point by utilizing the Meter. Seller shall prepare an invoice and deliver such invoice to Buyer at which point Buyer shall pay the amounts due pursuant to this Agreement. The invoice shall contain two sections: i) The Current Charges section; and, ii) the SREC Adjustment section. Amounts due under the Current Charges section shall be calculated by multiplying the amount of electrical energy delivered through the Meter to the Delivery Point by the appropriate Base Electrical Price found in Exhibit C. This amount shall be the "Current Charges". The SREC Adjustment section shall define a prior period by both date and corresponding invoice numbers, shall detail the exact price at which the SRECs generated in such period were sold by Seller, and shall apply these prices to the parameters contained in Exhibit C to define if an Energy SREC Adjustment is required. If an Energy SREC Adjustment is required, then the invoice shall calculate the appropriate adjustment, define the prior period to which the adjustment pertains and multiply this adjustment by the appropriate kWh corresponding to the SRECs generated in the prior period and subsequently sold, giving rise to the Energy SREC Adjustment on such invoice. This amount shall be the "Energy SREC Adjustment Charges" and together with the Current Charges shall encompass the total amount due, along with any late fees or penalties from prior invoices, if incurred.

4.3 Price Reset. After the first five (5) years of the Term, if because of regulatory changes or a change in law (i) the value of the Net Metering Credits credited to Buyer by the Local Electric Utility as result of the electricity generated by the System decreases below the Base Electricity Price provided in Exhibit C of this Agreement for a continuous period of two (2) years, then the Parties, upon Seller's receipt of written notice from Buyer, shall engage in good faith negotiations to modify the Base Electricity Price provided in Exhibit C of this Agreement, along with any other modifications to the Agreement to which the Parties may mutually agree. Within thirty (30) days of Seller's receipt of Buyer's written notice, each Party shall submit to the other Party its proposal to modify the terms and conditions of the Agreement, and to the extent required, the Lease. If the Parties cannot come to an agreement regarding such modifications within ninety (90) days of Seller's receipt of Buyer's written notice, then the matter shall be resolved pursuant to the dispute resolution procedures set forth in Section 14.5, provided, however, that the Parties hereby acknowledge and agree that the intent of the Parties is to amend the Agreement and to the extent required, the Lease, and for the Agreement and the Lease to continue in effect until the expiration of the Term and that the arbitrator(s) will render its decision in a manner which implements the intent of the Parties.

4.4 Title and Risk of Loss of Net Energy. Title to and risk of loss of the Net Energy will pass from Seller to Buyer at the Point of Delivery. Seller warrants that it will deliver the Net Energy to Buyer at the Point of Delivery free and clear of all liens, security interests, claims, and other encumbrances.

4.5 Governmental Charges.

a. Seller is responsible for local, state and federal income taxes attributable to Seller for income received under this Agreement.

b. Seller is responsible for any personal property taxes attributable to its ownership of the personal property associated with the Solar Energy Facility

c. Seller is responsible for any Governmental Charges attributable to the sale of Net Energy to Buyer, irrespective of whether imposed before, upon or after the delivery of Net Energy to Buyer at the Point of Delivery.

d. Both Parties shall use reasonable efforts to administer this Agreement and implement its provisions so as to minimize Governmental Charges. In the event any of the sales of Net Energy hereunder are to be exempted from or not subject to one or more Governmental Charges, the applicable Party shall, promptly upon the other Party's request therefore, provide the applicable Party with all necessary documentation to evidence such exemption or exclusion.

4.6 Guaranteed Annual Electric Output.

a. Seller guarantees that the Solar Energy Facility will produce the Guaranteed Annual Electric Output in each Contract Year.

b. In the event that a Production Shortfall exists in any Contract Year, unless excused by Force Majeure, Seller shall pay to Buyer, within thirty (30) days of the end of such Contract Year, the Production Shortfall Charge set forth in Exhibit C for each kWh of such Production Shortfall.

4.7 Environmental Credits and Value. The Agreement shall not include any rights, title or interest in any environmental offsets or allowances, renewable production or investment tax credits, or environmental attributes, value or credits of any kind or nature, earned by or attributable to (A) the Solar Energy Facility and (B) the Energy, including, without limitation, those resulting from or associated with the Federal Clean Air Act (including, but not limited to, Title IV of the Clean Air Act Amendments of 1990), renewable energy certificates ("**RECs**") (or associated GIS Certificates), solar renewable energy certificates ("SRECS"), or any other state or federal acts, laws or regulations that provide offsets, allowances, or credits related to energy or emissions (collectively, the "**Environmental Attributes**"). RECs represent the environmental and other non-energy attributes, value and credits of any kind and nature associated with one (1) megawatt hour (MWh) of generation eligible for compliance against the Renewable Energy Portfolio Standard, 225 CMR 14.00, including, but not limited to, any and all pollution offsets or allowances and regulatory compliance rights. Buyer may not, under the Agreement or otherwise, make any claim of title to any RECs or SRECs or the corresponding energy in regards to a renewable portfolio standard, emission offset or other environmental disclosure or similar regulatory requirement. To the extent any tax, RECs, SRECs, Environmental Attributes or other such credits are allocated to Buyer by operation of law or regulation, Buyer shall cooperate fully with Seller to disclaim any rights to such credits and attributes and to assign or allocate all such tax, RECs, SRECs, Environmental Attributes or other such credits, and the value thereof to Seller, without cost to Seller.

4.8 Net Metering Credits. Except as otherwise set forth in this Agreement and the Tariff, all interest in and title to any and all Net Metering Credits generated or created during the Term in connection with the operation of the Solar Energy Facility and the delivery of Net Energy to Buyer, together with the right to allocate such Net Metering Credits or receive cash payments in connection with the surrender or transfer of such Net Metering Credits, shall rest solely with Buyer.

ARTICLE 5 METERING AND BILLING

5.1 Billing. On or before the tenth (10th) day of each month during the Term (or if such day is not a

Business Day, the next succeeding Business Day), Seller shall calculate the amount due and payable to Seller for the Net Energy produced and delivered to Buyer pursuant to Exhibit C, with respect to the immediately preceding month, and shall forward to Buyer an invoice, including such calculation, with sufficient detail for Buyer to verify the calculation and the total amount due and payable for the previous month. Adjustments to bills shall be made in accordance with ISO-NE rules, policies and procedures and other Applicable Legal Requirements.

5.2 Payment. On or before the thirtieth (30th) day after Buyer receives an invoice from Seller, Buyer shall pay Seller for all amounts due for Net Energy delivered during the preceding month to Buyer. All such invoices shall be paid by a mutually agreeable method to the account designated by Seller. Amounts due as a result of any billing adjustment made in accordance with ISO-NE rules, policies and procedures shall not be subject to any interest charge in favor of Buyer or Seller. Any payment not made within the time limits specified herein shall bear interest from the date on which such payment was required to have been made through and including the date such payment is actually received by Seller. Such interest shall accrue at an annual rate equal to the Interest Rate.

5.3 Metering Equipment. Seller shall provide, install, own, operate and maintain the Net Metering Device. Seller shall maintain and test the Net Metering Device generally in accordance with the same terms and conditions applicable to the Metering Device installed for the purpose of delivering Energy to NSTAR and the calculation of Net Metering Credits, but in any event on no less than an annual basis.

a. Readings of the Net Metering Device shall be conclusive as to the amount of Net Energy delivered to Buyer; provided, that if the Net Metering Device is out of service, is discovered to be inaccurate, or registers inaccurately, measurement of Net Energy shall be determined in the following sequence:

- (i) by estimating by reference to quantities measured during periods of similar conditions when the Net Metering Device was registering accurately; or
- (ii) if no reliable information exists as to the period of time during which such Net Metering Device was registering inaccurately, it shall be assumed for correction purposes hereunder that the period of such inaccuracy for the purposes of the correction was equal to (x) if the period of inaccuracy can be determined, the actual period during which inaccurate measurements were made; or (y) if the period of inaccuracy cannot be determined, one-half of the period from the date of the last previous test of such Net Metering Device through the date of the adjustments, provided, however, that, in the case of clause (y), the period covered by the correction shall not exceed three months.

b. Each Party and its consultants and representatives shall have the right to witness each test conducted by or under the supervision of Seller to verify the accuracy of the measurements and recordings of the Net Metering Device. Seller shall provide at least twenty (20) days prior written notice to Buyer of the date upon which any such test is to occur. Seller shall prepare a written report setting forth the results of each such test, and shall provide Buyer with copies of such written report not later than thirty (30) days after completion of such test. Seller shall bear the cost of the annual testing of the Net Metering Device and the preparation of the Net Metering Device test reports.

c. The following steps shall be taken to resolve any disputes regarding the accuracy of the Net Metering Device:

i. If either Party disputes the accuracy or condition of any of the Net Metering Device, such Party shall so advise the other Party in writing.

ii. Seller shall, within fifteen (15) days after receiving such notice from Buyer, or Buyer shall, within such time after having received such notice from Seller, advise the other Party in writing as to its position concerning the accuracy of such Net Metering Device and state reasons for taking such position.

iii. If the Parties are unable to resolve the dispute through reasonable negotiations, then either Party may cause such Net Metering Device to be tested.

iv. If a Net Metering Device is found to be inaccurate by not more than 2%, any previous recordings of the Net Metering Device shall be deemed accurate, and the Party disputing the accuracy or condition of the Net Metering Device shall bear the cost of inspection and testing of the Net Metering Device.

v. If a Net Metering Device is found to be inaccurate by more than 2% or if such Net Metering Device is for any reason out of service or fails to register, then (a) Seller shall promptly cause the Net Metering Device found to be inaccurate to be adjusted to correct, to the extent practicable, such inaccuracy, (b) the Parties shall estimate the correct amounts of Net Energy delivered during the periods affected by such inaccuracy, service outage or failure to register, and (c) Seller shall bear the cost of inspection and testing of the Net Metering Device. If as a result of such adjustment the quantity of Electricity for any period is decreased (such quantity, the "*Net Energy Deficiency Quantity*"), Seller shall reimburse Buyer for the amount paid by Buyer in consideration for the Net Energy Deficiency Quantity. If as a result of such adjustment the quantity of Net Energy for any period is increased (such quantity, the "*Net Energy Surplus Quantity*"), Buyer shall pay for the Net Energy Surplus Quantity.

5.4 Records and Audits. Seller will keep, for a period of not less than two (2) years after the expiration or termination of any transaction, records sufficient to permit verification of the accuracy of billing statements, invoices, charges, computations and payments for such transaction. During such period Buyer may, at its sole cost and expense, and upon reasonable notice to Seller, examine Seller's records pertaining to such transactions during Seller's normal business hours.

5.5 Dispute.

a. If a Party, in good faith, disputes an invoice as provided in this Agreement, the disputing Party shall immediately notify the other Party of the basis for the dispute and pay the undisputed portion of such invoice no later than the due date. Upon resolution of the dispute, any required payment shall be made within seven (7) Business Days of such resolution along with the interest accrued at the Interest Rate per annum, from and including the due date through and including the date such payment is actually received by Seller. Any overpayments shall be returned by the receiving Party upon request or deducted from subsequent payments with interest accrued at the Interest Rate per annum. The Parties shall only be entitled to dispute an invoice within twelve (12) calendar months from the date of issuance of such invoice. If the Parties are unable to resolve a payment dispute under this Section, the Parties shall follow

the procedure set forth in Section 14.5.

b. In the event of a dispute with NSTAR with regard to Buyer's monthly electrical bills or the calculation of Net Metering Credits, Buyer and Seller each agree to take all Commercially Reasonable measures with respect to which it has legal capacity to facilitate and expedite resolution of such a dispute and to act at all times during such review within its legal capacity.

ARTICLE 6 OBLIGATIONS OF THE PARTIES

6.1 Net Metering.

a. Each Party's obligations under this Agreement are subject to the Solar Energy Facility qualifying for Net Metering as a Solar Net Metering Facility, subject to the provisions of M.G.L. c. 164, §§ 138 -- 140 and 220 C.M.R. § 18.00 and the Tariff.

b. Subject to the provisions of this Agreement, each of Buyer and Seller agree to take all reasonable measures with respect to which it has legal capacity to facilitate and expedite the review of all approvals necessary for the Solar Energy Facility to be eligible for and participate in Net Metering.

c. So long as any such amendment will materially benefit a Party without material detriment to the other Party, the Parties commit to each other in good faith to make Commercially Reasonable efforts to fully cooperate and assist each other to amend this Agreement to conform to any rule(s) or regulation(s) regarding Net Metering and ensure that the Solar Energy Facility is eligible for Net Metering.

6.2 Seller's Obligations.

a. Commencing with the Commercial Operations Date and throughout the Term, Seller shall procure and maintain in full force and effect a maintenance and repair agreement for the Solar Energy Facility with the Solar Energy Facility manufacturer, another qualified third party or through the use of its own personnel, which agreement or arrangement shall be subject to the approval of Buyer, such approval not to be unreasonably conditioned, withheld or delayed.

b. Seller shall maintain accurate operating and other records and all other data for the purposes of proper administration of this Agreement, including such records as may be required of Seller (and in the form required) by any Governmental Authority, NEPOOL, ISO-NE, NSTAR, or as may be reasonably required by Buyer.

c. Seller shall take all reasonable efforts to provide Buyer with a monthly e-mail report, as soon as practicable after the end of each month regarding the progress with respect to the permitting, financing, construction, and operations of the Solar Energy Facility or other data concerning the Solar Energy Facility as Buyer may, from time to time, reasonably request. Failure to provide such a report shall not give rise to an Event of Default under this Agreement.

d. Commencing with the Commercial Operations Date, Seller shall notify Buyer as soon as practicable, but no longer than within twenty-one (21) days, when Seller becomes aware that the Solar Energy Facility may be mechanically inoperable for more than a 24-hour period.

e. Seller shall perform its obligations under this Agreement in full compliance with the

Applicable Legal Requirements, and construct, operate, maintain and decommission the Solar Energy Facility in full accordance with Applicable Legal Requirements.

f. Seller shall comply with the provisions of the Lease.

g. Seller shall comply, and shall require its employees to comply, with the Occupational Safety and Health Act, and the rules promulgated thereunder by the U.S. Department of Labor, and all applicable state statutes and regulations affecting job safety.

h. Seller shall use Commercially Reasonable efforts to obtain at its sole cost all approvals and agreements required for Seller's interconnection of the Solar Energy Facility to Buyer's equipment and to assist Buyer in obtaining the approvals and agreements necessary for Buyer to connect its equipment to the local electric distribution grid maintained by NSTAR. Seller will promptly inform Buyer of all significant developments relating to such interconnection matters. Buyer will cooperate fully with Seller on all such matters and shall provide Seller with such information as Seller may reasonably request in connection with Seller's procurement of, and Seller's assistance in procurement of, such approvals and agreements. If any material changes in plans and/or specifications to the Solar Energy Facility or the interconnection of Buyer's facilities are required by the applicable electric distribution company, then Seller shall submit such changes, if any, to Buyer for its approval, which shall not be unreasonably conditioned, withheld or delayed. Seller recognizes and acknowledges that it is Buyer's preference to be paid in cash/check from NSTAR.

i. Seller shall be responsible for any and all costs associated with the interconnection agreement including studies, fees, charges and the like as more fully set forth in section 3.3 hereof.

j. Notwithstanding the time to achieve the Commercial Operation Date as herein defined, the Seller shall make every effort and move with due diligence in order to commence Commercial Operation as soon as possible.

6.3 Buyer's Obligations.

a. Buyer shall act as the Host Customer, as defined in 220 C.M.R. § 18.02, for the Solar Energy Facility. To the extent that NSTAR elects not to purchase Net Metering Credits from Buyer, Buyer shall be responsible for allocating Net Metering Credits to Buyer's designees. Except in the case of the termination of this Agreement on account of a default by Buyer, Seller shall have no claim on, or responsibility regarding, such Net Metering Credits.

c. Buyer shall perform its obligations under this Agreement in full compliance with the Applicable Legal Requirements.

d. Buyer shall comply with the provisions of the Lease.

e. Buyer shall reasonably cooperate with Seller so that Seller can meet its obligations under this Agreement and under the Lease. Buyer agrees to take all reasonable measures with respect to which it has legal capacity to facilitate and expedite the review of all local permits, if any, and approvals necessary for the design, construction, engineering, operations, maintenance and deconstruction of the Solar Energy Facility and to act at all times during such review within its legal capacity. This provision is not intended to and shall not be construed to imply that Buyer's Board of Selectmen has the authority to direct the outcome of any application submitted to any independent local permit issuing authority nor that Buyer's Board of Selectmen has the independent or concurrent authority to issue any permits or other such

approvals for the Solar Energy Facility. The Parties agree that, in the event either Party is sued by a third-party in connection with any Permit, approval or any other matter related to the Solar Energy Facility, this Agreement or the Lease, the defending Party will immediately notify and consult with the other Party. The Parties further agree that they will work together in good faith to expeditiously defend such action and shall coordinate their defense efforts subject to any restrictions imposed by Applicable Legal Requirements.

f. Not later than fifteen (15) Business Days after request therefor, Buyer shall, from time to time, provide estoppel certificates and non-disturbance agreements, if applicable, which recognize the rights of Seller, Seller's Financing Parties, and Seller's and Seller's Financing Party's assignees and successors under this Agreement, and confirming that this Agreement and Lease are valid, in full force and effect, and confirming such other matters as may be reasonably requested by Seller in form and content reasonably acceptable to the requesting party. Seller or Seller's Financing Parties shall provide Buyer with such estoppel certificate forms and non-disturbance agreements, if applicable. Buyer shall obtain all consents required for Buyer to enter into and perform its obligations under this Agreement from Buyer's lenders and tenants, if any, and from those of any other persons with interests in the Property. Seller shall pay for all reasonable costs which Buyer incurs in obtaining consents required for Buyer to enter into and perform its obligations under this Agreement from Buyer's lenders and tenants, if any, and from those of any other persons with interests in the Premises. Subject to the terms and conditions of this Agreement, Buyer shall, upon prior written request by Seller and at Seller's expense, execute a consent and agreement with respect to a collateral assignment hereof in favor of any Financier(s) in a form reasonably acceptable to Buyer in its sole discretion, provided that Buyer's duty to make factual statements or representations in such consent and agreement shall be contingent upon the truthfulness and accuracy of such statements or representations at the time the consent and agreement is delivered. For avoidance of doubt, the only documents hereunder that the Buyer shall be required to execute shall be estoppel certificates and non-disturbance agreements, if applicable, which shall include only the following information (1) Buyer has a lawful fee simple interest in the Property, (2) no other person holds a foreclosable interest in the Property which would terminate, impair or condition Seller's interest in the Property and (3) Seller has a valid leasehold in the Property and Buyer has not leased the Property to any person other than Seller.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties by Seller. As of the Effective Date, Seller represents and warrants to Buyer as follows.

- a. Seller is a Limited Liability Company, duly organized, validly existing, and in good standing under the laws of Delaware.
- b. Seller has full legal capacity to enter into and perform this Agreement.
- c. The execution of the Agreement has been duly authorized, and each person executing the Agreement on behalf of Seller has full authority to do so and to fully bind Seller.
- d. To Seller's knowledge, there are no pending or threatened action, suit, proceeding, inquiry, or investigation before or by any judicial court or administrative or law enforcement agency against or affecting Seller or its properties wherein any unfavorable decision, ruling, or finding would materially and adversely affect the validity or enforceability of the Agreement or Seller's ability to carry

out its obligations under this Agreement.

e. To Seller's knowledge, none of the documents or other written or other information furnished by or on behalf of Seller to Buyer or Buyer's agents pursuant to this Agreement contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading.

7.2 Representations by Buyer. Buyer represents to Seller as follows.

a. Buyer is a municipal corporation having its principal office at 195 Main Street, Maynard, Massachusetts.

b. Buyer has full legal capacity to enter into and perform this Agreement.

c. The execution of the Agreement has been duly authorized, and each person executing the Agreement on behalf of Buyer has full authority to do so and to fully bind Buyer.

d. To Buyer's knowledge, there are no pending or threatened action, suit, proceeding, inquiry, or investigation before or by any judicial court or administrative or law enforcement agency against or affecting Buyer or its properties wherein any unfavorable decision, ruling, or finding would materially and adversely affect the validity or enforceability of the Agreement or Buyer's ability to carry out its obligations under this Agreement.

e. None of the documents or other written or other information furnished by or on behalf of Buyer to Seller or Seller's agents pursuant to this Agreement contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading.

ARTICLE 8 TERMINATION/DEFAULT/REMEDIES

8.1 Events of Default by Buyer. The following shall each constitute an Event of Default by Buyer.

a. Buyer fails to make any material payment due under this Agreement within sixty (60) days after such payment is due unless the specific amount of the payment not made is being contested.

b. Buyer fails to perform or comply with any material covenant or agreement set forth in this Agreement and such failure continues for a period of sixty (60) days after receipt of written notice thereof from Seller to Buyer; provided that if Buyer proceeds with due diligence during such sixty (60) day period to cure such breach and is unable by reason of the nature of the work involved using Commercially Reasonable efforts to cure the same within the said sixty (60) days, Buyer's time to do so shall be extended by the time reasonably necessary to cure the same.

c. Fraud or intentional misrepresentation by Buyer with respect to any of the covenants or agreements of this Agreement.

d. Buyer has an Event of Default which results in termination under the Lease.

e. Buyer materially breaches its obligations under this Agreement.

8.2 Events of Default by Seller. The following shall each constitute an Event of Default by Seller.

a. Seller fails to make any material payment due under this Agreement or the Lease within thirty (30) days after such payment is due unless the specific amount of the payment not made is being contested.

b. Seller fails to perform or comply with any material covenant or agreement set forth in this Agreement or Lease and such failure continues for a period of thirty (30) days after receipt of written notice thereof from Buyer to Seller; provided that if Seller proceeds with due diligence during such thirty (30) day period to cure such breach and is unable by reason of the nature of the work involved using Commercially Reasonable efforts to cure the same within the said thirty (30) days, Seller's time to do so shall be extended by the time reasonably necessary to cure the same.

c. Fraud or intentional misrepresentation by Seller with respect to any of the covenants or agreements of this Agreement.

d. Seller has an Event of Default which results in termination under the Lease.

e. Seller materially breaches its obligations under this Agreement.

f. Seller:

(i) is dissolved (other than pursuant to a consolidation, amalgamation or merger);

(ii) becomes insolvent or is unable to pay its debts or fails (or admits in writing its inability) generally to pay its debts as they become due;

(iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors;

(iv) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor's rights, or a petition is presented for its winding-up, reorganization or liquidation, which proceeding or petition is not dismissed, stayed or vacated within twenty (20) Business Days thereafter;

(v) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights;

(vi) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets;

(vii) has a secured party take possession of all or substantially all of its assets, or has a

distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets;

(viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

8.3 Force Majeure.

a. Except as specifically provided herein, if by reason of *Force Majeure*, either Party is unable to *carry out*, either in whole or in part, any of its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the *Force Majeure* event, gives the other Party hereto written notice describing the particulars of the occurrence and the anticipated period of delay; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the *Force Majeure* event; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations.

b. If an event of *Force Majeure* affecting either Party continues for a period of one hundred eighty (180) days or longer, the performing Party may treat such an event as an Event of Default and may terminate this Agreement; provided, however, that if Seller notifies Buyer in writing within sixty (60) days of the *Force Majeure* event that it is pursuing insurance remedies with the intent of rebuilding or repairing the Solar Energy Facility, Buyer's right to terminate this Agreement shall be suspended for a period of six months from the date that is six months from the *Force Majeure* event.

8.4 Termination for Default.

a. Upon the occurrence of an Event of Default, the non-defaulting Party at any time thereafter shall give written notice to the defaulting Party specifying such Event of Default and such notice may state that this Agreement and the Term shall expire and terminate on a date specified in such notice, which shall be at least fifteen (15) Business Days after the giving of such notice, and upon any termination date specified in such notice, this Agreement shall terminate as though such date were the date originally set forth herein for the termination hereof, provided, however, that the defaulting party shall have fifteen (15) business days to cure such Event of Default.

b. In the event this Agreement is terminated as a result of an Event of Default of Seller:

i. Provided that Buyer has not provided Seller notice of a request for an appraisal pursuant to Section 11.2, (x) Buyer shall have no further obligation to purchase Net Energy or to make any payment whatsoever under this Agreement, except for payments for obligations arising or accruing prior to the effective date of termination; and (y) Seller shall remove the Solar Energy Facility from the Premises in accordance with the provisions of the Lease.

ii. Provided that Buyer has provided Seller notice of a request for an Appraisal pursuant to Section 11.2, Buyer shall continue to purchase Net Energy and to make payments therefore

under the Agreement until Buyer either exercises its right to purchase the Solar Energy Facility and related assets for the Purchase Price or notifies Seller that it will not provide Seller with an Exercise Notice pursuant to Section 11.7, in which case Seller shall thereafter remove the Solar Energy Facility from the Premises in accordance with the provisions of the Lease.

iii Except in the case of Termination due to an event of Force Majeure, the Seller hereby releases the decommissioning bond as set forth in section 3.6 hereof and shall cause the decommissioning bond held hereunder or an equivalent amount thereto, to be paid to the Seller.

c.. In the event this Agreement is terminated as a result of an Event of Default of

Buyer:

i. Seller shall have no further obligation to sell and deliver Net Energy or to make any payment whatsoever under this Agreement, except for payments for obligations arising or accruing prior to the effective date of termination. Buyer shall have no further obligation to purchase, receive or otherwise Net Meter any Net Energy from or on behalf of Seller; and

ii. Seller shall have the right, but not the obligation, to continue to maintain the Solar Energy Facility pursuant to the provisions of the Lease, and to enter into a power supply agreement with a third party, for the remainder of the then effective Term of the Lease. Upon the expiration of such term, the provisions of the Lease, including but not limited to Section 3.1(c) thereof, shall apply with respect to any proposal to extend the term thereof. In the event that Seller elects to continue operations of the Solar Energy Facility pursuant to the preceding sentence, Buyer shall use all commercially reasonable efforts to cooperate with Seller to allow Seller to interconnect directly with NSTAR or another Host Customer, in Seller's sole discretion and at Seller's sole cost, and Buyer shall promptly transfer to Seller any Net Metering Credits that are generated after the effective date of termination and are paid or credited to Buyer by NSTAR.

ARTICLE 9 REMEDIES AND LIMITATION OF LIABILITY

9.1 Remedies. Subject to the limitations set forth in this Agreement (including, but not limited to, Sections 4.5(b), 8.4(b)(iii), and 9.4), Buyer and Seller each reserve and shall have all rights and remedies available to it at law or in equity with respect to the performance or nonperformance of the other Party hereto under this Agreement. Each Party agrees that it has a duty to mitigate damages that it may incur as a result of the other Party's non-performance under this Agreement.

9.2 Limitation of Liability. **NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY CHARACTER, RESULTING FROM, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY INCIDENT TO ANY ACT OR OMISSION OF EITHER PARTY RELATED TO THE PROVISIONS OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY AT LAW OR EQUITY.**

9.3 Waivers.

a. No Implied Waivers - Remedies Cumulative. No covenant or agreement under this Agreement shall be deemed to have been waived by Seller or Buyer, unless such waiver shall be in writing and signed by the Party against whom it is to be enforced or such Party's agent. Consent or

approval of Seller or Buyer to any act or matter must be in writing and shall apply only with respect to the particular act or matter in which such consent or approval is given and shall not relieve the other Party from the obligation wherever required under this Agreement to obtain consent or approval for any other act or matter. Seller or Buyer may restrain any breach or threatened breach of any covenant or agreement herein contained, but the mention herein of any particular remedy shall not preclude either Seller or Buyer from any other remedy it might have, either in law or in equity. The failure of Seller or Buyer to insist upon the strict performance of any one of the covenants or agreements of this Agreement or to exercise any right, remedy or election herein contained or permitted by law shall not constitute or be construed as a waiver or relinquishment for the future of such covenant or agreement, right, remedy or election, but the same shall continue and remain in full force and effect. Any right or remedy of Seller or Buyer herein specified or any other right or remedy that Seller or Buyer may have at law, in equity or otherwise upon breach of any covenant or agreement herein contained shall be a distinct, separate and cumulative right or remedy and no one of them, whether exercised or not, shall be deemed to be in exclusion of any other.

b. Acceptance of Payment. Neither receipt nor acceptance by Seller or Buyer of any payment due herein, nor payment of same by Buyer or Seller, shall be deemed to be a waiver of any default under the covenants or agreements of this Agreement, or of any right or defense that Seller or Buyer may be entitled to exercise hereunder.

9.4 Failure to Achieve Commercial Operations. Seller anticipates that it will achieve Full Commercial Operations by the Commercial Operations Deadline, unless another date is mutually agreed upon by the parties in writing. In the event that Seller fails to obtain Commercial Operations on or before the Commercial Operations Deadline (except to the extent such failure is excused by an event of *Force Majeure*, a delay or an appeal of a Permit, or upon the exercise of the early termination rights of the parties pursuant to Section 2.2 of this Agreement, Seller shall pay to the Buyer an amount equal to three hundred eighty five (\$385.00) dollars per day, as liquidated damages and not as a penalty, until such Commercial Operations Date is achieved. Any such liquidated damages shall be capped at an aggregate amount of seventy five thousand dollars (\$75,000.00).

ARTICLE 10 ASSIGNMENT, SUBLETTING, MORTGAGE

10.1 Prior Written Consent.

Seller shall not assign or in any manner transfer this Agreement or any part thereof without the prior written consent of Buyer, which consent may not be unreasonably conditioned, withheld or delayed, except Seller may assign this Agreement to an Affiliate of Seller or a purchaser of all or substantially all of the Seller's assets used in connection with performing this Agreement, upon a showing of the proposed assignee's technical and financial capability to fulfill the requirements of Seller under this Agreement, as determined by Buyer in its reasonable discretion. Transfer of any ownership interests in Seller to an investor for purposes of allowing such investor to claim certain tax benefits (a "Tax Investor") available from the Solar Energy Facility and sold by Seller pursuant to which such Tax Investor shall not have ordinary control over the management and operations of Seller (and further transfers of such ownership interests by such Tax Investors) shall not be treated as an assignment of the Agreement for purposes of any such consent requirement. Notwithstanding the foregoing, Seller may transfer, sell, pledge, encumber or assign the Solar Energy Facility, this Agreement or the accounts, revenues or proceeds under the Agreement as security for the project financing associated with the Solar Energy Facility. In connection with any assignment made for such financing, at the request of Seller, Buyer shall execute a consent to

assignment in form and substance reasonably satisfactory to Buyer and the Financiers that incorporates terms and conditions customary in a project finance transaction of this type subject to review and approval by the Buyer which said approval shall not be unreasonably withheld.

10.2 Release of Seller. Seller shall be relieved from its obligations under this Agreement:

a. by any whole disposition of Seller's interest in this Agreement in compliance with Section 10.1, when coupled with a written instrument signed by the assignee or transferee of such interest in which said assignee or transferee accepts and agrees to be bound by the terms of this Agreement, unless the Parties agree otherwise, and except as otherwise provided by the terms of any assignment or transfer; and

b. in the event of any foreclosure by Financier(s), in which case Financier(s) shall substitute for Seller for purposes of this Agreement.

Absent express written consent of Buyer, the execution of a security interest in this Agreement or the Solar Energy Facility, or any assignment from a Financier to another Financier, shall not relieve Seller from its obligations under this Agreement.

ARTICLE 11 SOLAR ENERGY FACILITY PURCHASE AND SALE OPTIONS

11.1 Grant of Purchase Option. Seller hereby grants Buyer the right and option to purchase all of Seller's right, title and interest in and to the Assets on the terms set forth in this Article. (the "**Purchase Option**").

11.2 Buyer Request for Appraisal of Solar Energy Facility Value. Provided that Buyer is not in default under this Agreement, upon the earlier of (a) one hundred eighty (180) days prior to the end of the Initial Term or any Extension Term, but not earlier than sixty (60) months after the Commercial Operation Date or the placed in service date as determined under United States Department of the Treasury and Internal Revenue Service (IRS) guidelines and regulations or (b) an Event of Default of Seller, Buyer shall have the right to exercise the Purchase Option by providing a notice to Seller requiring a determination of the Purchase Price as set forth below.

11.3 Selection of Independent Appraiser. Within fifteen (15) days of Seller's receipt of a notice provided under Section 11.2, Seller and Buyer shall each propose an Independent Appraiser. If Seller and Buyer do not agree upon the appointment of an Independent Appraiser within such fifteen (15) day period, then at the end of such fifteen (15) day period, two proposed Independent Appraisers shall, within ten (10) days of each Party's notice, select a third Independent Appraiser (who may be one of the Independent Appraisers originally designated by the Parties or another Independent Appraiser) to perform the valuation and provide notice thereof to Seller and Buyer. Such selection shall be final and binding on Seller and Buyer.

11.4 Determination of Purchase Price.

a. The selected Independent Appraiser shall, within thirty (30) days of appointment, make a preliminary determination of the Appraised Value in accordance with Section 11.5 (the "**Preliminary Determination**").

b. Upon making such Preliminary Determination, the selected Independent Appraiser shall provide such Preliminary Determination to Seller and Buyer, together with all supporting documentation that details the calculation of the Preliminary Determination. Seller and Buyer shall each have the right to object to the Preliminary Determination within twenty (20) days of receiving such Preliminary Determination; provided that the objecting Party provides a written explanation documenting the reasons for its objection. Within fifteen (15) days after the expiration of such twenty (20) day period, the selected Independent Appraiser shall issue its final determination (the "*Final Determination*") to Seller and Buyer, which shall specifically address the objections received by the Independent Appraiser and whether such objections were taken into account in making the Final Determination. Except in the case of fraud or manifest error, the Final Determination of the selected Independent Appraiser shall be final and binding on the Parties.

c. The Final Determination of appraised value shall be determined by the Independent Appraiser through a methodology designed to determine fair market value of the Solar Energy Facility in compliance with United States Department of the Treasury and Internal Revenue Service (IRS) guidelines and regulations and with the requirements set forth by the Uniform Standards of Professional Appraisal Practice (USPAP) for a Summary Report.

11.5 Calculation of Purchase Price. The purchase price (the "*Purchase Price*") payable by Buyer for the Assets shall be equal to the Appraised Value as determined by the Independent Appraiser in its Final Determination.

11.6 Costs and Expenses of Independent Appraiser. Seller and Buyer shall each be responsible for payment of one half of the costs and expenses of the Independent Appraiser.

11.7 Exercise of Purchase Option.

a. Buyer shall have ninety (90) days from the date of the Final Determination (such period, the "*Exercise Period*"), to exercise the Purchase Option, at the Purchase Price set forth in the Final Determination. Buyer must exercise its Purchase Option during the Exercise Period by providing a notice (an "*Exercise Notice*") to Seller. Once Buyer delivers its Exercise Notice to Seller, such exercise shall be irrevocable.

b. Promptly following receipt of Buyer's notice pursuant to Section 11.2, Seller shall make the Assets, including records relating to the operations, maintenance, and warranty repairs, available to Buyer for its inspection during normal business hours.

11.8 Terms of Asset Purchase. On the Transfer Date (a) Seller shall surrender and transfer to Buyer all of Seller's right, title and interest in and to the Assets, and shall retain all liabilities arising from or related to the Assets prior to the Transfer Date, (b) Buyer shall pay the Purchase Price, by certified check, bank draft or wire transfer and shall assume all liabilities arising from or related to the Assets from and after the Transfer Date, and (c) both Parties shall (i) execute and deliver a bill of sale and assignment of contract rights containing such representations, warranties, covenants and other terms and conditions as are usual and customary for a sale of assets similar to the Assets, together with such other conveyance and transaction documents as are reasonably required to fully transfer and vest title to the Assets in Buyer, and (ii) deliver ancillary documents, including releases, resolutions, certificates, third person consents and approvals and such similar documents as may be reasonably necessary to complete the sale of the Assets to Buyer.

11.9 Transfer Date. The closing of any sale of the Assets (the "*Transfer Date*") pursuant to this Section 11.9 will occur no later than thirty (30) days following the date of the Exercise Notice.

ARTICLE 12
INDEMNIFICATION

12.1 Indemnification of Buyer. Seller shall indemnify and save harmless Buyer and each of its officials, employees, agents, and assigns (the "*Buyer Indemnified Parties*") from and against all liabilities, losses, damages, penalties, costs, and expenses, including reasonable attorneys' fees, that may be imposed upon or incurred by or asserted against any Buyer Indemnified Party by reason of any of the following occurrences during the Term.

- a. Any breach by Seller of its obligations, covenants, representations or warranties contained in this Agreement or made pursuant thereto.
- b. Any negligence on the part of Seller or any of its agents, contractors, servants, employees, subtenants, licensees or invitees in connection with this Agreement or the Solar Energy Facility.
- c. Any failure on the part of Seller or any of its agents, contractors, servants, employees, subtenants, licensees or invitees to fully comply with any Applicable Legal Requirements,

In case any action or proceeding is brought against any Buyer Indemnified Party by reason of any such claim, Seller, upon written notice from Buyer, shall defend such action or proceeding at Seller's expense to the reasonable satisfaction of Buyer.

ARTICLE 13
INSURANCE AND PAYMENT GUARANTEE

13.1 Insurance. The Insurance provisions in the Lease are hereby incorporated by reference.

ARTICLE 14
MISCELLANEOUS

14.1 Notices. All notices and other formal communications which either Party may give to the other under or in connection with this Agreement shall be in writing (except where expressly provided for otherwise), shall be effective upon receipt, and shall be sent by any of the following methods: hand delivery; reputable overnight courier; certified mail, return receipt requested; email (with confirmation by the other party) or facsimile transmission. The communications shall be sent to the following addresses:

If to Buyer:

Town Administrator
Town of Maynard
195 Main Street
Maynard MA 01754

with a copy to:

Lisa L. Mead
Town Counsel
Blatman Bobrowski & Mead, LLC
30 Green Street
Newburyport MA 01950
Phone Number: 978 463 7700
Email: Lisa@bbmatlaw.com

If to Seller:

Chief Executive Officer
EPG Solar, LLC
5425 Wisconsin Avenue
Suite 600
Chevy Chase, MD 20815

with a copy to:

Any Party may change its address and contact person for the purposes of this Section by giving notice thereof in the manner required herein.

14.2 Confidentiality. To the extent permitted by law, except as provided in this Section 14.2, neither Party shall publish, disclose, or otherwise divulge Confidential Information to any person at any time during or after the term of this Agreement, without the other Party's prior express written consent.

a. Each Party shall permit knowledge of and access to Confidential Information only to those of its affiliates, attorneys, accountants, representatives, agents and employees who have a need to know related to this Agreement.

b. If required by any law, statute, ordinance, decision, order or regulation passed, adopted, issued or promulgated by a court, governmental agency or authority having jurisdiction over a Party, that Party may release Confidential Information, or a portion thereof, to the court, governmental agency or authority, as required by applicable law, statute, ordinance, decision, order or regulation, and a Party may disclose Confidential Information to accountants in connection with audits, provided however, to the extent permitted by law, such disclosing Party shall notify the other Party of the required disclosure, such that the other Party may attempt (if such Party so chooses) to cause that court, governmental agency, authority or accountant to treat such information in a confidential manner and to prevent such information from being disclosed or otherwise becoming part of the public domain. .

c. In connection with the above, the Parties acknowledge that Buyer is a public entity

that is subject to certain public records disclosure statutes and regulations.

14.3 Severability. If any article, section, phrase or portion of this Agreement is, for any reason, held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such article, section, phrase, or portion so adjudged will be deemed separate, severable and independent and the remainder of this Agreement will be and remain in full force and effect and will not be invalidated or rendered illegal or unenforceable or otherwise affected by such adjudication, provided the basic purpose of this Agreement and the benefits to the Parties are not substantially impaired. Provided further, that the Parties shall enter into negotiations concerning the terms affected by such decisions for the purpose of achieving conformity with requirements of any Applicable Legal Requirements and the intent of the Parties.

14.4 Governing Law. This Agreement and the rights and duties of the Parties hereunder shall be governed by and shall be construed, enforced and performed in accordance with the laws of the Commonwealth of Massachusetts without regard to principles of conflicts of law and all actions shall be brought in Plymouth County.

14.5 Dispute Resolution. Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Section 14.5 shall be the exclusive mechanism to resolve disputes arising under this Agreement. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this Agreement.

a. Any dispute that arises under or with respect to this Agreement that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties. The dispute shall be considered to have arisen when one Party sends the other Party a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time period is modified by written agreement of the Parties.

b. In the event that the Parties cannot resolve a dispute by informal negotiations, the Parties agree to submit the dispute to mediation. Within fourteen (14) days following the expiration of the time period for informal negotiations, the Parties shall propose and agree upon a neutral and otherwise qualified mediator. In the event that the Parties fail to agree upon a mediator, the Parties shall request that the Boston, Massachusetts office of J*A*M*S appoint a mediator. The period for mediation shall commence upon the appointment of the mediator and shall not exceed sixty (60) days, unless such time period is modified by written agreement of the Parties. The decision to continue mediation shall be in the sole discretion of each Party. The Parties will bear their own costs of the mediation. The mediator's fees shall be shared equally by all Parties.

c. In the event that the Parties cannot resolve a dispute by informal negotiations or mediation, the sole venue for judicial enforcement shall be Plymouth County Superior Court, Massachusetts. Each Party hereby consents to the jurisdiction of such court, and to service of process in the Commonwealth of Massachusetts in respect of actions, suits or proceedings arising out of or in connection with this Agreement or the transactions contemplated by this Agreement.

d. Notwithstanding the foregoing, injunctive relief from such court may be sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this Agreement.

14.6 Entire Agreement. This Agreement, together with its exhibits and the Lease, contains the entire

agreement between Seller and Buyer with respect to the subject matter hereof and, with the exception of the Lease to which Seller and Buyer are Parties, supersedes all other understandings or agreements, both written and oral, between the Parties relating to the subject matter hereof.

14.7 Headings and Captions. The headings and captions in this Agreement are intended for reference only, do not form a part of this Agreement, and will not be considered in construing this Agreement.

14.8 Singular and Plural, Gender. If two or more persons, firms, corporations or other entities constitute either Seller or Buyer, the word "Seller" or the word "Buyer" shall be construed as if it reads "Sellers" or "Buyers" and the pronouns "it," "he," and "him" appearing in this Agreement shall be construed to be the singular or plural, masculine, feminine, or neuter gender as the context in which it is used shall require.

14.9 No Joint Venture. Each Party will perform all obligations under this Agreement as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of Seller and Buyer hereunder are individual and neither collective nor joint in nature.

14.10 Joint Workproduct. This Agreement shall be considered the work product of both Parties hereto, and, therefore, no rule of strict construction shall be applied against either Party.

14.11 Expenses. Each Party hereto shall pay all expenses incurred by it in connection with its entering into this Agreement, including, without limitation, all attorneys' fees and expenses.

14.12 No Broker. Seller and Buyer each represents and warrants to the other that it has dealt with no broker in connection with the consummation of this Agreement, and in the event of any brokerage claims against Seller or Buyer predicated upon prior dealings with the other Party, the Party purported to have used the broker agrees to defend the same.

14.13 Amendments; Binding Effect. This Agreement may not be amended, changed, modified, or altered unless such amendment, change, modification, or alteration is in writing and signed by both of the Parties to this Agreement or their successor in interest. This Agreement inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.

14.14 Nondiscrimination. Seller agrees that it shall not, because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap, or sexual orientation, (a) discriminate against any qualified employee, applicant for employment, subcontractor, or person or firm seeking to provide goods or services to Seller, or (b) deny any person access to the Solar Energy Facility or to any activities or programs carried out in connection with the Solar Energy Facility. Seller shall comply with all applicable federal and state statutes, rules, and regulations prohibiting discrimination in employment or public accommodation.

14.15 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

14.16 Further Assurances. From time to time and at any time at and after the execution of this Agreement, each Party shall execute, acknowledge and deliver such documents and assurances, reasonably requested by the other and shall take any other action consistent with the terms of the Agreement that may be reasonably requested by the other for the purpose of effecting or confirming any of the transactions contemplated by this Agreement. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section.

14.17 Good Faith. All rights, duties and obligations established by this Agreement shall be exercised in good faith and in a Commercially Reasonable manner.

14.18 Site Lease. The Parties agree that this Agreement shall take effect and the obligations of the Parties shall arise only upon simultaneous execution by the Parties of the Lease of even date herewith.

14.19 Survival. The provisions of Sections 4.4 (Governmental Charges), 4.6 (Environmental Credits and Value), 5.4 (Records and Audits), 5.5 (Dispute), 9.1 (Remedies), 9.2 (Limitation of Liability), and 9.3 (Waivers), and Articles 11 (Solar Energy Facility Purchase and Sale Options), 12 (Indemnification) and 14 (Miscellaneous), shall survive the expiration or earlier termination of this Agreement for a period of three (3) years, provided, however, Seller's rights and obligations under Sections 4.4 (Governmental Charges) and 4.6 (Environmental Credits and Value) shall terminate as of the Transfer Date if Buyer exercises its option to purchase the Assets.

14.20 Obligation to Modify Agreement Pursuant to Rules and Regulations under the Green Communities Act or other Actions by Governmental Authority. Upon implementation by the Massachusetts Department of Public Utilities, Massachusetts Department of Energy Resources or other Governmental Authority of any rule or regulation that may affect any provision of this Agreement, in particular any rule or regulation regarding the provision of or eligibility for Net Metering, the Parties shall negotiate in good faith, shall amend this Agreement to conform to such rule(s) and/or regulation(s) to the greatest extent possible, and shall use best efforts to conform such amendment to the original intent of this Agreement and to do so in a timely fashion.

14.21 No Limitation of Regulatory Authority. The Parties acknowledge and agree that Buyer is a municipal entity; and that nothing in this Agreement or the Lease shall be deemed to be an agreement by Buyer to issue or cause the issuance of any approval, authorization, or permit, or to limit or otherwise affect the ability of Buyer or the Commonwealth of Massachusetts to fulfill its regulatory mandate or execute its regulatory powers consistent with Applicable Legal Requirements.

14.22 No Third-Party Beneficiaries. This Agreement is intended solely for the benefit of the Parties hereto. Except as expressly set forth in this Agreement, nothing in this Agreement shall be construed to create any duty to or standard of care with reference to, or any liability to, or any benefit for, any person not a Party to this Agreement. This provision is not intended to limit the rights of a Leasehold Mortgagee under the Lease.

[Signature page to follow.]

IN WITNESS WHEREOF, the Parties have executed this Agreement under seal as of the Effective Date.

BUYER

Town of Maynard, Massachusetts

By: David S. He
, Selectman

By: Robert S. Babcock
, Selectman

By: [Signature]
, Selectman

By: _____
, Selectman

By: _____
, Selectman

Approved as to Form:

By: _____
, Esq.
Town Counsel

Agreement as to Procurement:

By: [Signature]
Town Administrator

SELLER

EPG Solar, LLC

By: _____

Name: Robert S. Babcock

Title: Chief Executive Officer

List of Exhibits to Agreement

Exhibit A — Description of the Premises

Exhibit B — Description of Solar Energy Facility

Exhibit C — Net Energy Price and Terms

Exhibit D — Solar Lease Provisions

Exhibit E – Certificate of Legal Existence and Good Standing
from the State of Delaware for EPG Solar LLC

Exhibit F – Certificate of Good Standing from the
Commonwealth of Massachusetts for EPG Solar LLC as a
foreign corporation

Exhibit G – Managers Certificate of EPG Solar LLC
authorizing entry into agreement, existence of Managers and
members, etc.

EXHIBIT A

DESCRIPTION OF THE PREMISES

Address:

Town of Maynard closed Landfill, Waltham Street,

Maynard, MA

Legal Description:

The approximately 14 acre former Town landfill site on Waltham Street, Maynard MA located approximately three quarters of a mile east-south-east of the town center of Maynard roughly opposite Oak Ridge Drive.

Description of the Premises (as further shown on the attached plan drawing by Sanborn Head and dated October 25, 2011):



EXHIBIT B

DESCRIPTION OF THE SOLAR ENERGY FACILITY

Nameplate Capacity	Up to 1.5 MW
Estimated Annual Energy Production	1,750,000 kWh/year
Preliminary Specifications:	See attached

EXHIBIT C

NET ENERGY PRICE AND TERMS

GUARANTEED ANNUAL ELECTRIC OUTPUT	<u>1,130,000 kWh/year</u>
ANNUAL SYSTEM DEGRADATION FACTOR	<u>1% per year</u>
BASE ELECTRICITY PRICE	<ol style="list-style-type: none">1. \$.02 per kWh during the first ten Contract Years of the Term;2. \$.0775 per kWh during Contract Years 11-20; and3. \$.0975 during the Extension Period, if any.
ELECTRIC PRICE SREC THRESHOLD	<ol style="list-style-type: none">1. \$350.00 per SREC in years 1-10;2. <u>\$70.00 per SREC (or REC) in years 11-20;</u>3. <u>\$50.00 per SREC (or REC) in years 21-30, if any.</u>
CALCULATED NET ENERGY PRICE	<u>The Net Energy Price in any period shall be the Base Electricity Price per kWh plus the Energy SREC Adjustment applicable to that period.</u>
ENERGY SREC ADJUSTMENT	<ol style="list-style-type: none">1. a \$.01 per kWh increase in the Electric Price above for each \$10.00 realized revenues from SRECs fall below the SREC threshold to a maximum increase of \$.05 per kWh in years 1-10;2. \$.01 per kWh increase in the Electric Price above for each \$10.00 realized revenues from SRECs fall below the SREC threshold to a maximum increase of \$.07 per kWh in years 11-20;

3. \$.01 per kWh increase in the Electric Price above for each \$10.00 realized revenues from SRECs fall below the SREC threshold to a maximum increase of \$.05 per kwh in years 21-30, if any.

DECOMMISSIONING ASSURANCE
AMOUNT

At least \$250,000.00

NAMEPLATE CAPACITY

Approximately 1.2 MW

PRODUCTION SHORTFALL
CHARGE

If in any Contract Year (other than the first Contract Year) the System fails to produce electric energy equal to or greater than 4750,000 kWhs of annual output, herein known as the Guaranteed Minimum Output ("GMO"), which failure is not due to casualty to the Facility, act of Governmental Authority, or exercise of EPG Solar's rights under this Agreement, or otherwise excused by a Force Majeure Event, EPG Solar shall, within thirty (30) days of the later of (i) the end of such Contract Year or (ii) receipt from Host of a statement, supported by reasonable documentation, asserting a Production Shortfall, commence paying to Host an amount in accordance with the following formula:

Formula:

Y= Amount Paid

AVE\$= the average cost per kWh of electricity to Host from other sources for such Contract Year

PPA\$= price for electric energy payable under this Agreement for the Contract Year

X= Amount of Energy Produced in Contract Year

GMO= GMO for the Contract Year

$Y = (AVE\$ - PPA\$) * (GMO - X)$, given (GMO-X) is positive and (AVE\$-PPA\$) is positive.

EPG Solar may pay such amount in one lump sum or equal monthly payments over the next three---months or, at the election of EPG Solar, credit it against invoices to Host for electricity from the System.



EXHIBIT D: SOLAR LEASE PROVISIONS

The terms and conditions of the Net Metering Power Sales Agreement (“Agreement”) are by this reference incorporated herein as though fully set forth in the Lease Agreement and all capitalized terms not otherwise defined herein shall have the same definition as set forth in the Agreement. In the event of any discrepancy between the terms of the Agreement and the terms of this Lease, the terms of the Agreement shall govern this Lease, unless expressly provided otherwise herein.

The parties agree as follows:

1. LEASE OF PROPERTY.

(a) Landlord (shall refer to the “Town of Maynard” or “Buyer”) hereby leases to Tenant (shall refer to as “EPG Solar, LLC (or its successors and assigns)” or “Seller”) a portion of the Property containing 600,000 square feet more or less as shown on a plan entitled “Maynard Landfill, Photovoltaic Electricity for Maynard Landfill ” by Sanborn Head, Surveyor Environmental Consultant and dated October 25, 2011 and attached hereto as Attachment 1, together with the non-exclusive right for ingress and egress for the purpose of installation and maintenance of a Solar Energy Conversion Facility (hereinafter the “System” or “Solar Energy Facility”), which land, structures and access are collectively referred to hereinafter as the “Solar Premises” or “Premises”.

(b) Landlord also grants to the Tenant the right and sufficient space for the installation and maintenance of wires, cables, conduits and pipes and utilities necessary for the construction, use and maintenance of the System as shown on Attachment 1.

2. PERMITTED USES.

(a) Tenant may erect and maintain on the Premises improvements, personal property, and facilities, including, but not limited to System(s), appurtenances, and any other equipment and related facilities necessary for the generation of electrical energy. In accordance with Tenant’s response to the Town of Maynard, “Solar Power Generation Facility Land Lease And Operation”; such use includes the right to test, survey and check title on the Premises and any other items necessary to the successful and secure operation of the System. Landlord and Tenant agree that Exhibit 1 shows the initial location of the System by Tenant and that it does not limit Tenant’s rights under this paragraph. Landlord’s execution of this Agreement will signify Landlord’s approval of Exhibit 1. Tenant has the right to install such solar photovoltaic generation and ancillary equipment as necessary to comply with the terms of the PPA, and other related solar energy conversion equipment and to make improvements, alterations, or additions on the Premises appropriate for Tenant’s use with Landlord’s written approval (“*Tenant Changes*”). Tenant agrees to comply with all applicable governmental laws, rules, statutes and regulations, relating to its use of the System on the Premises. Tenant has the right to modify, supplement, replace, and/or upgrade the equipment at any time during the term of this Agreement. Tenant will be allowed, subject to approval by Landlord, which approval will not be unreasonably withheld, to make such alterations to the Premises as are required to accomplish

Tenant's Changes or to insure that Tenant's System complies with all applicable federal, state or local laws, rules or regulations, permits, and approvals. Tenant shall not use the Property for any other purpose without the written consent of the Landlord.

(b) Construction Standards. Any and all improvements to be constructed, erected or maintained on or at the Premises shall be constructed, erected and maintained in accordance with plans and specifications submitted to and approved by the Landlord and in accordance with local building permits. The Tenant's construction, operation and maintenance of any and all improvements on or at the Premises shall at all times comply with all applicable federal, state, and local laws (including the local Zoning By-law), rules and regulations as they may be enacted or amended from time to time. The Tenant will be responsible for obtaining, at its sole cost and expense, all approvals, and permits necessary for the construction of any and all improvements on or at the Premises, and the operation and maintenance of said improvements and the Premises, including, without limitation, special permits and variances required by local authorities, and approvals and authorizations required by the state and federal authorities, if any, including but not limited to permits from the Commonwealth of Massachusetts Department of Environmental Protection relative to construction on a landfill.

(c) Construction Costs. The Tenant will pay all costs and expenses incurred in connection with the design, construction, maintenance and operation of the System and any and all related improvements on or at the Premises, including utility connections and the cost of electricity and other utilities the Tenant consumes in its construction, maintenance and operational activities at the rate charged by the servicing utility company, for which the Tenant will make payments directly to said company. The Tenant shall perform all construction, maintenance and operations activities on or at the Premises in compliance with all applicable laws, ordinances, codes and regulations, as the same may be administered by authorized governmental officials. Notwithstanding the foregoing, in connection with constructing the System, the Tenant will incur directly or indirectly a variety of site development costs including, but not limited to, costs of labor, materials, contractors and subcontractors, costs relative to plan generation, survey costs, costs of disposal, costs of construction of the System, costs of bringing utilities service to the site, and other costs (collectively "*Site Development Costs*").

(d) Removal: The Tenant shall be responsible for removal of all above ground portions of the System in accordance with this Agreement.

(e) Capacity of System: Tenant shall design the System to comply with specifications included in the Request for Proposals, or as otherwise agreed to in writing, by the Landlord, which is incorporated herein by reference.

(f) Title to System. Subject to the rights provided to Landlord pursuant to other terms hereof, the System and all alterations, additions, improvements or installations made thereto by Tenant and all Tenant property used in connection with the installation, operation and maintenance of the System is, and shall remain, the personal property of Tenant ("*Tenant Property*"). In no event shall any Tenant Property be deemed a fixture, nor shall Landlord, nor anyone claiming by, through or under Landlord (including but not limited to any present or future mortgagee of the Premises) have any rights in or to the Tenant Property at any time except as otherwise provided herein. Landlord shall have no development or other interest in the

System or any System Assets or other equipment or personal property of Tenant installed on the Premises, and Tenant may remove all or any portion of the System or any System Assets at any time and from time to time as further provided in the Agreement. Without limiting the generality of the foregoing, Landlord hereby waives any statutory or common law lien that it might otherwise have in or to the System and other System Assets or any portion thereof.

(g) Security Interests in System. Except as otherwise provided herein and in the Agreement, Landlord acknowledges and agrees that Tenant may grant or cause to be granted to a lender a security interest in the System(s) and in Tenant's rights to payment under the Agreement, and Landlord expressly disclaims and waives any rights in the System at law or in equity pursuant to this lease. Any security interest shall be subordinate to the interest of the Landlord in the Premises and subject to the terms and conditions of this Agreement.

(h) Dog Park. On or before and/or simultaneous with commencement of construction of the Solar Facility, Tenant shall construct a dog park and adjacent parking on the Premises as indicated on Attachment 1 and shall permit at all times access to the public and the Town for purposes of using and maintaining same.

(h) No Additional Uses. Except with the prior express written consent of Landlord, Tenant shall not use the Premises for any use other than the installation, operation, maintenance, repair and removal of the System.

3. TERM.

(a) The lease term will be twenty (20) years ("*Initial Term*"), commencing upon the Effective Date date of this Lease Agreement. The term will terminate on the last day of the month in which the twentieth annual anniversary of the Effective Date.

(b) This Agreement may be renewed for 1 additional 10-year Term (the "*Extension Terms*") at the sole option of the Landlord, unless the Tenant notifies the Landlord in writing of Tenant's intention not to renew this Agreement at least 180 days prior to the expiration of the Initial Term.

4. RENT.

Beginning on the Effective Date, Tenant will pay the Landlord an annual rental payment in the amount of \$2,500.00 per MW of installed capacity with no annual escalation (hereinafter "Rent").

5. APPROVALS.

(a) Landlord agrees that Tenant's ability to use the Premises is contingent upon its suitability for Tenant's intended use and Tenant's ability to obtain all governmental licenses, permits, approvals or other relief required of or deemed necessary by Tenant for its use of the Premises, including a Site Plan Approval Permit and construction permits (collectively referred to as "*Governmental Approvals*"). Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Governmental Approvals for Tenant's use under this Agreement

and agrees to reasonably assist Tenant with such applications, except with respect to local permits and/or approvals where Landlord's assistance may constitute a conflict of interest.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Premises surveyed by a surveyor of its choice, all at Tenant's sole cost and expense.

(c) Tenant may also obtain, at Tenant's sole cost and expense, soil boring, percolation, engineering procedures, environmental investigation or other tests or reports ("*Tests*") on, over, and under the Premises, necessary to determine if the Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations or Governmental Approvals. Tenant will indemnify Landlord against all costs (including reasonable attorney's fees), claims, and damages relating to the conducting of said tests and inspections, excepting requirements contained within applicable environmental reporting guidelines and any resulting remediation required of Landlord. Tenant shall restore the Premises to the same condition as it existed prior to the Tenant having conducted the Tests.

6. TERMINATION.

This Agreement may only be terminated, pursuant to the Power Purchase Agreement entered into by the Parties in conjunction with the execution of this Agreement.

7. INSURANCE.

(a) The Tenant shall carry during the term of this Lease and any extension or renewal thereof workers' compensation insurance as required by Massachusetts law and employer's liability insurance in the amount of not less than five hundred thousand dollars (\$500,000.00).

(b) The Tenant shall carry during the term of this Lease and any extension or renewal thereof commercial general liability insurance in the amount of not less than one million dollars (\$1,000,000.00) per occurrence and five million dollars (\$5,000,000.00) general aggregate and automobile liability insurance with a combined single limit of one million dollars (\$1,000,000.00) covering all leased, owned, non-owned and hired vehicles.

(c) The Tenant shall carry during the term of this Lease and any extension or renewal thereof pollution liability insurance in the amount of not less than one million dollars (\$1,000,000.00) per occurrence and five million dollars (\$5,000,000.00) general aggregate. Commercial general liability insurance shall include contractual liability insurance. Each policy of commercial general liability insurance, automobile liability insurance, and pollution liability insurance shall name the Town of Maynard as an additional insured. All certificates and policies shall contain the following provision:

"Notwithstanding any other provision herein, should any of the above policies be cancelled or materially amended before the expiration date thereof, the issuing company will mail thirty (30) days prior written notice thereof to the named certificate holder and to the Town Administrator, 195

Main Street, Maynard, Massachusetts 01754 before such cancellation or amendment shall take place.”

(d) The Tenant shall provide to the Landlord current certificates of insurance from the insurance carrier for each such policy of insurance stating the limits of liability and the expiration date of the policy. Renewal Certificates shall be filed with the Town at least 10 days prior to the expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Town upon the execution of this Agreement, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Lease and shall state that such insurance is as required by this Lease. Failure to provide or to continue in force such insurance shall be deemed a material breach of this Contract and shall be grounds for immediate termination. Said insurance shall include: Workers Compensation/Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent Contractors, personal injury, contractual liability. All Certificates of Insurance shall be on the “MIAA” or “ACORD” Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses. All insurance shall be written on an occurrence basis. Coverage's shall be maintained without interruption from date of the Lease until date of final payment and termination of any coverage required to be maintained after payment.

(e) The Tenant shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Landlord.

8. INTERFERENCE.

(a) Landlord will not grant, after the date of this Agreement, a lease, license or any other right to any third party for use of the Property or Premises, if such use may in any way adversely affect or interfere with Tenant's System. Landlord will notify Tenant and receive Tenant's written approval, which approval shall not be unreasonably withheld, prior to granting any third party the right to access or use the Property or Premises which will interfere with Tenant's operation of the Systems or the electrical generation system or diminish the superiority of Tenant's accessibility to light. Nothing contained herein will restrict Tenant nor its successors and assigns from installing and modifying its equipment.

(b) Landlord will not use, nor will Landlord permit its employees, tenants, licensees, invitees or agents to use, any portion of the Property or Premises in any way which interferes with the operations of Tenant or the rights of Tenant under this Agreement. Landlord will cause such interference to cease upon not more than forty-eight (48) hour notice from Tenant. In the event any such interference does not cease within the aforementioned cure period then the parties acknowledge that Tenant will suffer irreparable injury, and therefore, Tenant will have the right, in addition to any other rights that it may have at law or in equity, for Landlord's breach of this Agreement, to elect to enjoin such interference or to terminate the Agreement upon notice to Landlord.

9. INDEMNIFICATION.

(a) Tenant agrees to protect, defend, indemnify, and hold harmless Landlord, officers, agents and employees, from and against any damages, liability, claims, or causes of action, proceedings, demands, losses, costs, expenses and judgments of every nature and description (including attorney's fees) in favor of any party that may arise in whole or in part or of or in connection with, or arising directly out of Tenants, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, and their actions or failure to act under this Agreement, or resulting from negligence or any willful act or omission by the Tenant, its subcontractors, agents or employees, except to the extent attributable to the gross negligence or intentional act or omission of Landlord, its employees agents or independent contractors. Tenant agrees to investigate and defend against any such liability, claims, or causes of action in favor of any party, arising directly out Tenant's actions or failure to act under this Agreement or resulting from the negligence or any willful act or omission by Tenant, its subcontractors, agents or employees. Tenant agrees to investigate and defend against any such liability, claims, or causes of action at its sole expense.

(b) The provisions of this Paragraph will survive the expiration or termination of this Agreement.

10. WARRANTIES.

(a) Tenant and Landlord each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(b) Landlord represents:

(i) Landlord solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license, unencumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, agreements of record or not of record, which would adversely affect Tenant's use and enjoyment of the Property under this Agreement;

(ii) its execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on the Landlord; and

(iii) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, Landlord will use best efforts to provide promptly to

Tenant a mutually agreeable Subordination, Non-Disturbance and Attornment Agreement.

11. ENVIRONMENTAL.

(a) Landlord and Tenant agree that each will be responsible for compliance with any and all environmental, hazardous material and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in, or on the Premises.

(b) Tenant agrees to hold harmless and indemnify Landlord from and to assume all duties, responsibilities, and liabilities at its sole cost and expense, for all duties, responsibilities and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to:

(i) Tenant's failure to comply with any environmental, hazardous material or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, and

(ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the activities conducted by the Tenant on the Premises, unless the environmental conditions are caused by the Landlord or third party.

(c) The indemnifications of this Paragraph specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remedial, removal or restoration work required by any governmental authority. The provisions of this Paragraph will survive the expiration or termination of this Agreement.

12. ACCESS.

At all times throughout the term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, will have twenty-four hour, seven day access to and over the Premises for the installation, maintenance and operation of the System and any utilities serving the Premises. In the event any public utility is unable to use the access provided to Tenant, the Landlord hereby agrees to grant an additional access either to Tenant or to the public utility, for the benefit of Tenant, at no cost to Tenant.

13. REMOVAL.

All portions of the System brought onto the Premises by Tenant will be and remain Tenant's personal property and, at Tenant's option, until the expiration of the Agreement.

Landlord covenants and agrees that no part of the System constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Premises, it being the specific intention of the Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of the Tenant and may be removed by Tenant at any time during the Term and shall be removed by the Tenant at the end of the Term unless the parties agree otherwise in writing as an amendment hereto.

14. MAINTENANCE, UTILITIES.

(a) Tenant will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted.

(b) Tenant agrees that it will maintain and undertake the Landlords obligations to the Commonwealth of Massachusetts to perform monitoring of the Landfill. Tenant shall pay for, undertake and/or contract with the necessary entities and appropriate and qualified facilities to comply with any and all regulations and requirements which are a part of the Landlords requirements under the Landfill Closure Agreement by and between the Commonwealth of Massachusetts Department of Environmental Protection and the Landlord.

(b) Tenant will be solely responsible for and promptly pay all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. Landlord will cooperate with any utility company requesting an easement over, under and across the Premises in order for the utility company to provide service to the Tenant.

15. DEFAULT AND RIGHT TO CURE.

(a) The following will be deemed a default by Tenant and a breach of this Agreement:

(i) non-payment of Rent if such rent remains unpaid for more than thirty (30) days after receipt of written notice of such failure to pay from Landlord; or

(ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after receipt of written notice from Landlord specifying the failure.

No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement. Landlord's failure to perform any term or condition under this Agreement within forty-five (45) days after receipt of written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord has commenced to cure the default within such period and

provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have the right to exercise any and all rights available to it under law and equity.

(c) Cures - Rights, Costs and Damages. If Tenant shall default in the performance of any material covenant, term, provision, limitation, or condition contained in this lease beyond the expiration of all applicable notice and grace periods (hereafter, collectively, a "*Triggering Event*"), Landlord, without being under any obligation to do so and without waiving such default, may remedy such other default for the account of Tenant, immediately upon notice in the case of emergency or if necessary to protect public health or safety, or to avoid forfeiture of a material right, or in any other case only provided Tenant shall fail to remedy such default within thirty (30) days, or such longer period as may be required due to the nature of such default (provided Tenant has commenced and is diligently prosecuting a cure), after Landlord notifies Tenant in writing of Landlord's intention to remedy such other default. All costs reasonably incurred by Landlord to remedy such default (including, without limitation, all reasonable attorney's fees), shall be at the expense of Tenant.

(d) Step-in Rights/Step-out. Regardless of whether Landlord exercises its rights pursuant under the terms of this Agreement, Landlord shall have the right, but not the obligation, and to the extent permitted by Applicable Legal Requirements, to take possession of the System and to operate the System upon the occurrence of a Triggering Event until Tenant demonstrates to the reasonable satisfaction of Landlord that the events giving rise to the Triggering Event have been cured, and that Tenant has taken all reasonably necessary steps to ensure that such events shall not re-occur. Landlord shall not be liable to Tenant for any damages, losses or claims sustained by or made against Tenant as a result of Landlord's exercise of possession and operational control of the System except to the extent such damages, losses or claims result from the negligence or willful misconduct of Landlord.

16. CONSTRUCTION AND OPERATION OF PERMITTED USE

(a) General Description. Except as otherwise specified herein, the System shall consist solely of the improvements described in Attachment of the Agreement.

(b) Construction Commences Promptly. Tenant shall commence the construction of the System promptly following the Effective Date and will proceed diligently and continuously thereafter until completion, subject to a Force Majeure Event.

(c) Completion Requirements. Tenant will arrange for the construction of the System in a good, careful, proper and workmanlike manner in accordance with good engineering practices, the Request for Proposals which resulted in the Agreement, and with all Applicable Legal Requirements. The System will, when completed, comply with all Applicable Legal Requirements and the Request for Proposals.

(d) Compliance with DEP Landfill Permits. Tenant shall ensure that construction of the System complies with all Department of Environmental Protection permit(s) related to the protection of

the landfill cap. Tenant shall indemnify and hold the Landlord harmless for any damage, caused to the landfill, including the landfill cap, as a result of the installation of the system and any fines imposed as a result of such damage. In the event of such damage, the Tenant shall repair, to Department of Environmental Protection standards, any and all portions of the landfill or the landfill cap at its sole cost and expense in a prompt and timely fashion. The Tenant shall pay the Landlord a sum, not to exceed \$25,000, to allow the Landlord to hire a Peer Review Engineer to represent the interests of the Landlord during construction of the Solar Energy Facility and associated appurtenances to assure that no damage is done to the landfill cap. No building or foundation permit shall issue until such time as said peer review funds are placed in escrow with the Landlord.

(e) Interconnection with Electric Distribution Grid. Tenant will obtain at its sole cost all approvals and agreements required for Tenant's interconnection of the System to the LDC System. Tenant will promptly inform Landlord of all significant developments related to such interconnection matters.

(f) As-Built Plans. Within ninety (90) days following the issuance of the Notice of Commercial Operation, Tenant shall prepare and deliver to Landlord detailed as-built plans accurately depicting the System including, without limitation, all wiring, lines, conduits, piping and other structures or equipment.

(g) Inspection and Entry. During the course of construction and completion of the System and any substantial alteration thereto, Tenant shall maintain all plans, shop drawings, and specifications relating to such construction which Landlord, its agents or contractors may examine at reasonable times upon reasonable prior notice for the purpose of determining whether the work conforms to the agreements contained or referenced in this lease. Landlord may, upon reasonable prior notice to Tenant, enter upon the Lease Area and inspect the System for the purpose of ascertaining their condition or whether Tenant is observing and performing the obligations assumed by it under this lease, all without hindrance or molestation from Tenant.

(h) From time to time the Landlord or its agents will need to access the Premises to perform monitoring requirements for regulatory compliance activities as required by DEP. The Landlord shall provide no less than 48 hours notice to the Tenant of its need for access. Tenant shall not unreasonably deny access by the Landlord for said Landlord for said monitoring activities.

17. ASSIGNMENT/SUBLEASE.

Tenant shall not assign, sublet or otherwise transfer or encumber all or any part of Tenant's interest in this Agreement without the prior written consent of the Landlord, which consent shall not be unreasonably conditioned, withheld or delayed. Landlord acknowledges and accepts that Tenant will likely encumber all or a part of the Tenant's interest in this Agreement in relation to a financing of the System and the Facility. Notwithstanding the foregoing, Landlord retains rights of review and approval and shall not be obligated to agree to any such encumbrance or assignment which encumbers or interferes with the Landlord's rights hereunder or under the Power Purchase Agreement.

18. NOTICES.

(a) All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notice will be addressed to the parties at the addresses set forth above. Either party hereto may change the place for the giving of notice to it by thirty (30) days written notice to the other as provided herein.

(b) Notice shall be made to the following:

Landlord: Town Administrator
Town of Maynard
195 Main Street
Maynard MA 01754

with a copy to:

Lisa L. Mead
Town Counsel
Blatman Bobrowski & Mead, LLC
30 Green Street
Newburyport MA 01950
Phone Number: _978 463 7700
Email: Lisa@bbmatlaw.com

Tenant: Robert Babcock
Chief Executive Officer
EPG Solar, LLC
5425 Wisconsin Avenue
Suite 600
Washington, DC 20815
Rob.babcock@epgsolar.com

with a copy to:

19. SEVERABILITY.

If any term or condition of this Agreement is found unenforceable, the remaining terms and conditions will remain binding upon the parties as though said unenforceable provision were not contained herein. However, if the invalid, illegal or unenforceable provision materially affects this Agreement then the Agreement may be terminated by either party on ten (10) days prior written notice to the other party hereto.

20. CONDEMNATION.

In the event Landlord receives notification of any condemnation proceedings affecting the Premises, Landlord will provide notice of the proceeding to Tenant within forty-eight (48) hours. If a condemning authority takes all of the Premises, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will be entitled to share in the condemnation proceeds in proportion to the values of their respective interests in the Premises, which for Tenant will include, where applicable, the value of its System, moving expenses, prepaid rent, and business dislocation expenses. Tenant will be entitled to reimbursement for any prepaid Rent.

21. CASUALTY.

Landlord will provide notice to Tenant of any casualty affecting the Premises within forty-eight (48) hours of the casualty. If any part of the System or Premises is damaged by fire or other casualty so as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to the Landlord, which termination will be effective as of the date of such notice. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent. Tenant shall provide notice to Landlord of any release by Tenant or observed by Tenant of oil and/or hazardous materials on the Premises within twenty-four (24) hours of such release.

22. LIENS.

(a) Landlord hereby waives any and all lien rights it may have, statutory or otherwise, concerning the System or any portion thereof. The System shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law, and Landlord hereby consents to Tenant's right to remove all or any portion of the System if it vacates the Premises.

(b) Mechanic's Liens. Tenant shall not create, or suffer to be created or to remain, and shall promptly discharge, any mechanic's, laborer's or materialman's lien upon the Premises or the System or the income therefrom and Tenant will not suffer any other matter or thing arising

out of Tenant's use and occupancy of the Premises whereby the estate, rights and interests of Landlord in the Premises or any part thereof might be impaired, except in accordance with and subject to the provisions of this lease.

(c) If any mechanic's, laborer's or materialman's lien shall at any time be filed against the Premises or the System, Tenant, within ten (10) days after notice to Tenant of the filing thereof, shall cause such lien to be discharged of record by payment, deposit, bond, insurance, order of court of competent jurisdiction or otherwise. If Tenant shall fail to cause such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding. Any amount so paid by Landlord and costs and expenses reasonably incurred by Landlord in connection therewith, together with interest thereon at the Interest Rate from the respective dates of Landlord's making of the payment of the cost and expenses, shall be paid by Tenant to Landlord within ten (10) Business Days of Landlord's invoice therefor.

(d) Landlord shall not directly or indirectly cause, create, incur, assume or suffer to exist any liens on or with respect to the System or any interest therein.

23. PERFORMANCE, PAYMENT, AND REMOVAL BONDS

(a) Prior to the start of any site preparation, installation and construction work performed on the Premises, the Tenant shall ensure the posting of a performance and labor and materials payment bond equal to 100% of the cost of construction of improvements to the Premises naming the Landlord as a protected party, and to provide appropriate insurance during construction and thereafter so as to protect its interests and those of the Landlord.

(b) On or before the Commercial Operations Date the Tenant shall provide to the Landlord a form of security reasonably acceptable to Landlord and Tenant to ensure the decommissioning of the system, in the amount of \$250,000.00. Failure of the Tenant to so provide shall be deemed an event of Default hereunder and under the Agreement.

24. MISCELLANEOUS.

(a) Amendment; Waiver. This Agreement cannot be amended, modified or revised unless done in writing and signed by an authorized agent of the Landlord and an authorized agent of the Tenant. No provision may be waived except in a writing signed by both parties. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any manner limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach of a similar or different matter.

(b) Short Form Lease. Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease. Either party may record this memorandum at any time, in its absolute discretion.

(c) Bind And Benefit. The terms and conditions contained in this Agreement will run with the Premises and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(d) Entire Agreement. This Agreement and the exhibits attached constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements.

(e) Governing Law / Forum. This Agreement will be governed by the laws of the Commonwealth of Massachusetts, without regard to conflicts of law. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of the Commonwealth, Plymouth County or the federal district court sitting in the Commonwealth, which shall have exclusive jurisdiction thereof. This paragraph shall not be construed to limit any other legal rights of the parties.

(f) Interpretation. Unless otherwise specified, the following rules of construction and interpretation apply:

(i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof;

(ii) use of the term "including" will be interpreted to mean "including but not limited to";

(iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed;

(iv) exhibits are an integral part of the Agreement and are incorporated by reference into this Agreement;

(v) use of the terms "termination" or "expiration" are interchangeable; and

(vi) reference to a default will take into consideration any applicable notice, grace and cure periods.

(g) Estoppels. Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a statement in writing (i) certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying this Agreement, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to such party's knowledge, any uncured defaults on the part of the other party hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrance of the Premises. Failure to deliver such a statement within such time will be conclusive upon the requesting party that (i) this Agreement is in full force and effect, without modification except as may be properly