

SITE LEASE AGREEMENT – ROOFTOPS

This Site Lease Agreement (“*Lease*”), dated as of _____, 2013 (the “*Effective Date*”), is by and between _____, as Lessee (“*Lessee*”), and the Town of Cohasset, as Lessor (“*Lessor*”). In this Lease, Lessor and Lessee are sometimes referred to individually as a “*Party*” and collectively as the “*Parties*.”

RECITALS

WHEREAS, Lessor desires to purchase solar generated electricity for use by Lessor, and proposes to lease to Lessee a portion of the rooftop on the Town of Cohasset Middle/High School located at 143 Pond Street, Cohasset, Massachusetts (the “*Property*”), such portion (as further set forth on Exhibit A) constituting the Lessee’s leasehold interest hereunder (the “*Premises*”) to facilitate the development and operation of a solar power electric generation facility;

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

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

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

ARTICLE 1 -- DEFINITIONS

When used in this Lease, 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, except that capitalized words that are used but not defined herein shall have the meanings ascribed to such terms as set forth in the Net Metering Power Purchase Agreement.

“*Access Easement Area*” means the portion of the Property over which the Lessee has appurtenant rights for ingress, egress, and access to and from the Premises pursuant to Section 2.1, as is described, depicted or mapped on Exhibit A, as such Exhibit A may be amended in accordance with the provisions of this Lease.

“*Annual Lease Payment*” has the meaning set forth in Section 4.1.

“*Affiliate*” means, with respect to Lessee, (i) each Person that, directly or indirectly, controls or is controlled by or is under common control with Lessee; (ii) any Person that beneficially owns or holds ten percent (10%) or more of any class or voting securities of Lessee

or ten percent (10%) or more of the equity interest in Lessee; or (iii) any Person of which Lessee 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 Lessee, 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 (i) the Lessee’s leasehold, access and easement interests in and to the Premises or any part thereof in connection with the Permitted Use, and (ii) the construction, operation, ownership, maintenance, repair, decommissioning and removal of the Solar Energy Facility.

“**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.

“**Commissioning Completion**” means the Solar Energy Facility is mechanically complete, is capable of generating electricity, and has been interconnected to the local distribution system of National Grid in accordance with the Interconnection Agreement(s) and the Tariff.

“**Concealed Conditions**” means subsurface or otherwise concealed physical conditions at the Premises that differ materially from the Documented Site Conditions or those conditions ordinarily expected to exist at a site like the Property and generally recognized as inherent in construction activities of the type and character as the work to be performed by Lessee under this Lease, and that Lessee could not have otherwise discovered through the exercise of reasonable diligence in advance of commencing its performance of its obligations at the Premises.

“**Confidential Information**” means all oral and written information exchanged between the Parties which contain 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 Lease: (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 Lease; (b) information that was already known by either Party on a non-confidential basis prior to this Lease; (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, Lessor is a public entity

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

“Construction Easement Area” means the portion of the Property over which the Lessee has appurtenant rights for installation and construction of the Solar Energy Facility pursuant to Section 2.1, as is described, depicted or mapped on Exhibit A, as such Exhibit A may be amended in accordance with the provisions of this Lease.

“Documented Site Conditions” means those conditions at the Premises documented in any engineering or other similar reports that are provided by Lessor to Lessee, or are conducted by or on behalf of Lessee, prior to the Effective Date.

“Effective Date” means the date set forth in the recital paragraphs of this Agreement.

“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 under Section 45 or 48 of the Internal Revenue Code, or otherwise, to the extent that the Solar Energy Facility receives or is entitled to receive any such credits.

“Environmental Attributes” means any environmental offsets or allowances, renewable production or investment tax credits, value or credits of any kind or nature (other than Net Metering Credits), earned by or attributable to (A) the Solar Energy Facility and (B) the Energy generated by the Solar Energy Facility, 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), RECs (or associated GIS Certificates), Solar RECs, or any other state or federal acts, laws or regulations that provide offsets, allowances, or credits related to energy or emissions created through the generation of energy from the Solar Energy Facility.

“Environmental Laws” means all Applicable Legal Requirements regarding or related to the protection of the environment or human health and safety, including, but not limited to, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the Federal Clean Water Act, the Federal Clean Air Act, the Toxic Substances Control Act, and all analogous and/or otherwise applicable state and local laws in each case as amended, and all rules, regulations, judgments, decrees, orders and licenses arising under all such laws.

“Event of Default” has the meaning set forth in Article XVI.

“Financier” means any individual or entity providing money or extending credit to Lessee 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 Lessee has a lien in connection with the Solar Energy Facility. “Financier” shall not include common trade creditors of Lessee.

“**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 Lease, including, but not limited to, Acts of God; high winds, hurricanes or tornados (but not the lack of sunshine); 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 Lessor may not be asserted as an event of *Force Majeure* by Lessor; 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*.

“**Full Operations Date**” means the date on which the Solar Energy Facility has achieved Commissioning Completion and has commenced delivering Net Energy to the Point of Delivery.

“**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.

“**Grid Metering Device(s)**” means any and all revenue quality meters installed by Lessee or National Grid at or after the Point of Delivery that are necessary or appropriate for the interconnection of the Solar Energy Facility to the National Grid local electric distribution system and/or the calculation of Net Metering Credits, and (to the extent agreed upon by the Parties, and allowed under the Tariff and the Interconnection Agreement(s), the Project Metering Device(s) are not installed) 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 Lessor.

“**Hazardous Materials**” means those substances defined, classified, or otherwise denominated as a “hazardous substance,” “toxic substance,” “hazardous material,” “hazardous waste,” “hazardous pollutant,” “toxic pollutant” or oil in any Environmental Law or in any regulations promulgated pursuant to Environmental Laws.

“**Interconnection Agreement(s)**” shall mean one or more Interconnection Service Agreements entered into with National Grid which authorize the interconnection of the Solar Energy Facility with the local electric distribution system of National Grid, which confirms the entirety of or each unit of the Solar Energy Facility as eligible for treatment as a Net Metering Facility of a Municipality or Other Government Entity, as applicable.

“**Interest Rate**” means a fluctuating interest rate per annum equal to the sum of (i) the Prime Rate as stated in the “Bonds, Rates & Yields” section of The Wall Street Journal on the Effective Date and thereafter on the first day of every calendar month, plus (ii) two percentage points. (In the event that such rate is no longer published in The Wall Street Journal or such publication is no longer published, the Interest Rate shall be set using a comparable index or interest rate selected by Lessee and reasonably acceptable to Lessor.) The Interest Rate hereunder shall change on the first day of every calendar 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.

“**kW**” means kilowatt.

“**kWh**” means kilowatt hour.

“**Lease**” has the meaning set forth in the introductory paragraph of this Lease.

“**Lessee**” has the meaning set forth in the introductory paragraph of this Lease.

“**Lessor**” has the meaning set forth in the introductory paragraph of this Lease.

“**MW**” means Megawatt.

“**MWh**” means Megawatt hour.

“**National Grid**” means National Grid USA, the local electric distribution company for Lessor, or its successor.

“**Net Energy**” means the actual and verifiable amount of Energy generated by the Solar Energy Facility and delivered to Lessor at the Point of Delivery in excess of any Energy consumed by the Solar Energy Facility, as metered in kilowatt hours (kWh) at the Project Metering Device(s) or Grid Metering Device(s), as applicable, and that conforms to Applicable Legal Requirements and the Tariff, that generates or creates Net Metering Credits together with the Lessor’s right to allocate such Net Metering Credits or receive cash payments in connection with the surrender or transfer of such Net Metering Credits.

“**Net Metering**” means the process of measuring the difference 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, §§138 – 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 Facility of a Municipality or Other Governmental Entity**” shall have the meaning set forth in 220 C.M.R. § 18.00, as implemented by the Tariff.

“**Net Metering Power Purchase Agreement**” means that certain Net Metering Power Purchase Agreement executed between the Parties of even date herewith.

“**Notice of Commencement**” has the meaning set forth in Section 2.5.

“**Parties**” means Lessor and Lessee, and their respective successors and permitted assignees.

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“**Permits**” means all state, federal, and local authorizations, certificates, permits, licenses and approvals required by any Governmental Authority for the construction, operation and maintenance of the Solar Energy Facility.

“**Permitted Improvements**” means the Solar Energy Facility that will be used to conduct the Permitted Use, together with accessory uses thereto, including, but not limited to, access roads and electric interconnection facilities, as further set forth in Article 9 and Exhibit B hereto.

“**Permitted Use**” means the use and occupation of the Premises solely and exclusively for the design, construction, operation, maintenance, repair and removal of the Permitted Improvements, which are designed and intended for the purpose of generating solar-generated electricity for sale within the New England power grid.

“**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 Lessee to Lessor, as described, depicted or mapped on Exhibit A, as such Exhibit A may be amended in accordance with the provisions of this Lease.

“**Premises**” has the meaning set forth in Exhibit A, as such Exhibit A may be amended in accordance with the provisions of this Lease.

“**Project Metering Device(s)**” means any and all revenue quality meters installed by Lessee 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 Lessor; provided, however, that to the extent Lessee determines to not install one or more Project Metering Device(s), the amount of Net Energy generated by the Solar Energy Facility and delivered to the Point of Delivery for sale to Lessor shall be determined by the Grid Metering Device(s).

“**Prudent Solar Industry Practice**” means those practices generally recognized by the solar industry, including Lessee, in the northeastern United States as good and proper, and such other practices, methods or acts which, in the exercise of reasonable judgment by those reasonably experienced in the industry in light of the facts known at the time a decision is made, would be expected to accomplish the result intended at a reasonable cost, consistent with reliability, safety, site security, expedition, project economics and Applicable Legal Requirements. Prudent Solar Industry Practices are not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to be a spectrum of good and proper practices, methods and acts.

“**Release**” means a “release” as defined under M.G.L. c. 21E, §2.

“**Solar Energy Facility**” means the solar power electrical generation facility to be constructed (using new and previously unused components), owned, operated and maintained by Lessee, with specifications for an aggregate nameplate capacity of approximately ___ MW (DC), together with all appurtenant facilities, including, but not limited to, the Project Metering Device, Grid Metering Device and any interconnection facilities, and transformers required to interconnect the Solar Energy Facility to the Point of Delivery and the National Grid 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, as may be amended from time to time by a Governmental Authority.

“**Solar RECs**” means Solar Carve-Out Renewable Attributes as defined in 225 C.M.R. § 14.02.

“**Substantial Alteration**” has the meaning set forth in Section 9.8.

“**Tariff**” means the National Grid 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.

“**Term**” has the meaning set forth in Section 3.1.

“**Termination Date**” means the earlier to occur of (i) the last day of the Term, (ii) the date of termination of this Lease as the result of an Event of Default, and (iii) the date of termination pursuant to Article 16.

“**Triggering Event**” has the meaning given to it in Section 7.1.

“**Utility Easement Area**” means the portion of the Property over which the Lessee has appurtenant rights for the installation, construction, operation and maintenance of electrical utility infrastructure required for the Solar Energy Facility pursuant to Section 2.1, as may be

described, depicted or mapped on Exhibit A, as such Exhibit A may be amended in accordance with the provisions of this Lease.

“**Work**” has the meaning set forth in Section 13.1.

ARTICLE 2 -- LEASE OF PREMISES

2.1 Premises. Lessor, for and in consideration of the rents, covenants, and agreements herein contained on the part of Lessee to be paid, kept, and performed, does hereby lease, rent, let, and demise unto Lessee, and Lessee does hereby take, accept, hire, and lease from Lessor, upon and subject to the conditions hereinafter expressed, the Premises (as further described in and shown on Exhibit A, as such Exhibit A may be amended in accordance with the provisions of this Lease) for the sole and exclusive purpose of conducting the Permitted Use and designing, constructing, operating, maintaining, repairing, and expanding the Permitted Improvements. Appurtenant to Lessee’s rights to the Premises is the non-exclusive right, subject to the terms set forth herein, to use each of the Access Easement Area, Construction Easement Area, and Utility Easement Area for its specified purpose. The Premises, which shall include the Lessee’s appurtenant rights to the Access Easement Area, Construction Easement Area, and Utility Easement Area, are demised subject to the following:

- (a) any encumbrances shown on the survey of the Property or the Premises;
- (b) covenants, restrictions, easements, agreements, and reservations, as set forth in Exhibit A, as such Exhibit A may be amended in accordance with the provisions of this Lease;
- (c) present and future zoning laws, ordinances, resolutions and regulations of the municipality in which the land lies, and all present and future ordinances, laws, regulations, and orders of all boards, bureaus, commissions, and bodies of any municipal, county, state, or federal authority, now or hereafter having jurisdiction, so long as they permit or otherwise regulate the use of the Premises for the Permitted Use (provided that Lessor shall not restrict or encumber the Premises for the Permitted Use after the Effective Date);
- (d) the condition and state of repair of the Premises as the same may be on the Effective Date;
- (e) all water charges, electric charges, and sewer rents, accrued or un-accrued, fixed or not fixed, from and after the Effective Date arising as a result of the construction and operation of the Solar Energy Facility, the Permitted Improvements, or any other appurtenant facilities or improvements associated with the Permitted Use; and
- (f) full compliance by the Lessee with all Applicable Legal Requirements that require compliance by Lessee in connection with the Premises, the Permitted Use or the Permitted Improvements (provided, however, that Lessor shall not restrict or otherwise encumber the Premises for the Permitted Use after the Effective Date).

Exhibit A attached to this Agreement as of the Execution Date includes the Parties' initial approximation of the Premises. Lessee shall be permitted to propose to Lessor amendments to Exhibit A that set forth an updated description of and drawings indicating the Premises (including the Access Easement Area, Construction Easement Area, Point of Delivery and Utility Easement Area), one such amendment to be submitted before commencement of installation work on the Solar Energy Facility and another to be submitted upon completion of the Solar Energy Facility that shall indicate the as-built location of the Solar Energy Facility and all Permitted Improvements. Lessor shall review such proposed amendments to Exhibit A and approve such amendments in a written consent executed by Lessee and Lessor. Lessor's approval shall not be unreasonably denied or delayed; provided, however, in the event the Lessor does not provide such approval, the Parties shall be obligated to negotiate in good faith in order to reach agreement on the form of such proposed amendments.

2.2 Net Lease. Lessor shall not be required to make any expenditure, incur any obligation, or incur any liability in connection with this Lease or the ownership, construction, operation, maintenance, or repair of the Permitted Improvements throughout the Term, except as otherwise provided in this Lease. Lessee hereby accepts the condition of the Premises and the Property as they may affect Lessee's construction, operation, repair, demolition, maintenance, and management of the Permitted Improvements. The Parties agree that Lessee shall not be liable for any conditions on the Premises (a) arising from or related to acts or omissions occurring prior to the Effective Date, except to the extent arising from or related to Lessee's negligence or willful misconduct; or (b) occurring after the Effective Date that arise from or are related to Lessor's negligence or willful misconduct.

2.3 Ownership of the Permitted Improvements. Except as otherwise expressly provided herein, Lessor shall have no ownership of, or other interest in, the Permitted Improvements or the Environmental Attributes.

2.4 Additional Use. Except with the prior express written consent of Lessor, Lessee shall not use the Premises for any use other than the Permitted Use.

2.5 Notice of Commencement; Delivery of Possession. At any time after the Effective Date and before Lessee's commencement of its construction activities on the Premises with respect to the Permitted Improvements, Lessee shall deliver to Lessor a notice of commencement of its obligations under this Lease (the "Notice of Commencement"), which notice shall state the date as of which Lessee's obligations under this Lease shall have commenced and shall state the approximate date as of which Lessee intends to begin its construction activities at the Premises with respect to the Permitted Improvements. Lessor shall deliver full possession of the Premises to Lessee as of the date of Lessee's Notice of Commencement.

2.6 Access to Premises Before Notice of Commencement. During the period after the Effective Date and before Lessee's delivery of its Notice of Commencement, as requested by Lessee after Lessee's having provided reasonable advance notice Lessor, Lessor shall provide Lessee with reasonable access to the Premises for purposes of evaluating the condition of the Premises and in connection with designing and engineering the Permitted Improvements; provided, however, that Lessee's access shall be subject to (a) Lessee's compliance with

applicable law, and (b) the provision by Lessee of reasonable insurance in reasonable amounts, consistent with the provisions of Article V herein.

ARTICLE 3 -- TERM

3.1 Term.

(a) The term of this Agreement (the “**Term**”) shall commence on the Effective Date, and, unless terminated earlier pursuant to the provisions of this Lease, shall continue until 11:59 PM on the day preceding the twentieth (20th) anniversary of the Effective Date (the “**Termination Date**”).

(b) The Parties, upon mutual written agreement entered into at least one year before the end of the Term, may extend the Term for an additional period of time as may be agreed upon by the Parties.

3.2 Early Termination. Either Party may terminate this Lease without penalty or any liability to the other Party prior to the achievement of the Full Operations Date as specified below:

(a) in the event that Lessee has not prepared for submission to National Grid by Lessor a complete interconnection application seeking authorization to construct and interconnect the Solar Energy Facility to the National Grid local electric distribution system within ninety (90) days of the Effective Date;

(b) in the event a Governmental Authority decrees, orders or demands that development of the Solar Energy Facility cease by reason of or arising in connection with the performance or non-performance of either Party of any of its obligations under any Permit;

(c) in the event that the Interconnection Agreement(s), in form and substance satisfactory to Lessee and Lessor, in each of its reasonable discretion, are not finalized and executed within two hundred ten (210) days of Lessor’s submission of the interconnection application, provided, however, that the terminating Party shall give the other Party thirty (30) days prior written notice of its intent to terminate this Lease if such Interconnection Agreement(s) are not timely obtained, and such notice of termination shall be void if such Interconnection Agreement(s) are obtained within thirty (30) days of the non-terminating Party’s receipt of such notice;

(d) in the event that Lessee has not obtained financing sufficient to purchase, construct, commission, own and operate the Solar Energy Facility within eighteen (18) months of the Effective Date, provided, however, Lessor (subject to the provisions of subsection (e), below) shall not have the right to terminate this Lease at such time if any final Permit necessary for the construction, financing, or operation of the Solar Energy Facility has not been obtained due to a legal challenge, and Lessee is using and continues to use commercially reasonable efforts to obtain such final, non-appealable Permits;

(e) except as set forth below, in the event that Lessee has not entered into a binding purchase order for the material components of the Solar Energy Facility within eighteen (18) months of the Effective Date; or

(f) except as set forth below, in the event that the Full Operations Date does not occur within twenty-four (24) months of the Effective Date.

In the case of termination pursuant to any of subsections (a) through (f) 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 notice, 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 in subsections (e) and (f) above shall not be extended or otherwise excused by *Force Majeure*. Notwithstanding any other provision of this Lease, the Parties also acknowledge and agree that provided Lessee has used all commercially reasonable efforts to cause National Grid to timely issue the Interconnection Agreement(s) in accordance with the Tariff, the deadline set forth in subsection (c) above shall be extended on a day-to-day basis in the event that National Grid has not tendered to Lessee such Interconnection Agreement(s) on or before the one hundred eightieth (180th) day after the date on which Lessee filed its application with National Grid under subsection (a) above. Except as specifically set forth in this Lease, each Party's right to terminate this Lease in accordance with this Section 3.2 shall constitute its sole remedy for the failure to achieve the milestones specified in this Section 3.2.

3.3 Memorandum of Lease. After the Effective Date but before Lessee's delivery of its Notice of Commencement, the Parties shall execute a Memorandum of Lease in a form reasonably agreeable to both parties, and Lessee shall promptly thereafter record said Memorandum in the Norfolk County Registry of Deeds. Upon the termination of this Lease, Lessee agrees to execute an instrument releasing all of its rights granted herein except those rights which expressly survive the termination of this Lease, and to deliver the same to Lessor within ten (10) days after the Termination Date.

ARTICLE 4 -- RENT AND OTHER CONSIDERATION

4.1 Annual Lease Payment.

(a) During the Term of this Lease, Lessee shall pay to Lessor, in advance, pursuant to Lessor's written instructions, without notice or demand, an Annual Lease Payment of one dollar (\$1.00) payable on the anniversary of the execution of this Lease.

(b) During the Term of this Lease, Lessee shall pay all property (real or personal) taxes assessed by Lessor with respect to the Solar Energy Facility or Lessee's leasehold interest in the Premises.

(c) Notwithstanding the foregoing, if the Net Metering Power Purchase Agreement is terminated pursuant to Section 6.1(d) or Section 8.4(c), and Lessee exercises its

corresponding right (as Lessee) under Section 6.1(d)(ii) or Section 8.4(c)(ii), this Lease shall not terminate but shall be and remain in full force and effect until the Termination Date, unless terminated sooner in accordance with the terms hereof, and the annual Rent paid by Tenant to Landlord hereunder for the remainder of the Term shall be increased to reflect the fair market value of the leasehold interest provided herein with respect to the Solar Energy Facility, as agreed upon by the Parties or determined by an appraisal conducted by an appraiser mutually acceptable to both Parties. In the event of termination of this Lease, all obligations of the Parties hereunder beyond the date of termination shall cease except those which expressly survive expiration or termination of this Lease in accordance with the terms hereof.

4.2 Financial Assurance. Lessee shall furnish, for Lessor's benefit, performance and payment bonds, issued by a surety licensed to do business in the Commonwealth and whose name appears on U.S. Treasury Department Circular 570, in industry standard form and as follows:

(a) prior to the initiation of any ground or rooftop disturbing or construction activities at the Premises, a bond in an amount equal to the estimated cost to procure, install and fully commission the Solar Energy Facility; and

(b) no later than ten (10) years prior to the expiration of the initial Term, a bond in amount equal to \$50 per kW of installed capacity of the Solar Energy Facility, as security to pay for the removal of the Solar Energy Facility from the Premises upon expiration of the Lease.

Any dispute between the Parties with respect to the application of the proceeds of any such bond shall be resolved pursuant to the provisions of Section 21.5 herein.

ARTICLE 5 -- INSURANCE

5.1 Public Liability and Property Damage Insurance. Commencing on the date of its Notice of Commencement and during the remainder of the Term, and except to the extent otherwise required by Applicable Legal Requirements or by the Interconnection Agreement, Lessee at its cost shall maintain commercial general liability insurance on the Premises that is written on an occurrence basis insuring against all liability for personal injury and property damage arising out of and in connection with the Premises, the Permitted Use, the Permitted Improvements, or Lessee's use or occupancy of the Premises, in standard form with a general aggregate limit of not less than \$4,000,000, a products-completed operations aggregate limit of not less than \$2,000,000, and a per occurrence limit of not less than \$2,000,000 for bodily injury and property damage, with a commercially-reasonable deductible, and which shall include operations and blanket contractual liability coverage which insures performance by Lessee of the indemnity provisions of this Lease.

5.2 Property Insurance – Personal Property. Commencing on the date of its Notice of Commencement and during the remainder of the Term, Lessee at its cost shall maintain on all of its personal property on or about the Premises a policy of "all risk" or "special causes of loss" property insurance, with a commercially-reasonable deductible, and with vandalism and

malicious mischief endorsements, to the extent of at least 100 percent of their full replacement value.

5.3 Property Insurance – Permitted Use. Commencing on the date of its Notice of Commencement and during the remainder of the Term, Lessee at its cost shall maintain on the Permitted Improvements a policy of “all risk” property insurance in an amount not less than 100 percent of the full replacement value of the Permitted Improvements, and with a commercially-reasonable deductible, and containing a replacement cost coverage endorsement, an agreed amount endorsement waiving all co-insurance provisions, and a “building ordinance coverage” endorsement. Such insurance shall also include, if applicable, flood and earthquake perils in such amounts and with such deductibles as are approved by Lessor, which approval shall not be unreasonably conditioned, withheld or delayed.

5.4 Workers’ Compensation Insurance. Commencing on the date of its Notice of Commencement and during the remainder of the Term, if applicable, Lessee shall at its cost maintain Workers’ Compensation Insurance, subject to the statutory limits of the Commonwealth of Massachusetts, an employer’s liability insurance with a limit of at least \$1,000,000 per accident and per employee.

5.5 Lessor’s Insurance. During the Term, Lessor at its cost shall maintain insurance of the type and in the amount(s) customarily maintained by the Town against acts, omissions or negligence by Lessor or any of its tenants, agents, contractors, servants, employees, subtenants, licensees or invitees on the Premises that may affect the Permitted Improvements.

5.6 Insurance Companies. All insurance required under this Lease shall be issued by insurance companies authorized to do business in the Commonwealth of Massachusetts, with a claims paying ability rating of A- or better and a financial class of V or better, as rated in the most recent edition of Best’s Insurance Reports.

5.7 Policy Delivery, Payment Evidence. Concurrently with the delivery of its Notice of Commencement and not less than thirty (30) days prior to the expiration dates of the expiring policies furnished pursuant to this Article 5, certificates of insurance bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to the other Party of such payment shall be delivered by Lessee and Lessor to the other Party.

5.8 Notice of Cancellation. Each certificate of insurance delivered hereunder, to the extent obtainable, shall contain an agreement by the insurer that such policy shall not be cancelled or surrendered without at least thirty (30) days prior written notice to the other Party and to any mortgagee named in such policy.

5.9 Leasehold Mortgagee. Lessor agrees that the name of any Leasehold Mortgagee, as hereinafter defined, may be added to the loss payable endorsement of any and all insurance policies required to be carried by Lessee hereunder (except for Worker’s Compensation).

ARTICLE 6 -- SURRENDER ON TERMINATION

6.1 Surrender and Removal of Property.

(a) On the Termination Date, Lessee shall peaceably and quietly leave, surrender and yield up unto Lessor the Premises.

(b) Notwithstanding the foregoing, Lessee shall be required, at Lessee's sole expense, within one hundred twenty (120) days after the Termination Date of this Lease to decommission the Solar Energy Facility, remove the Permitted Improvements from the Premises and appurtenant areas, and return the Premises and appurtenant areas to approximately their original condition existing on the Effective Date.

(c) Notwithstanding anything to the contrary contained elsewhere in this Lease, any waiver in whole or in part of the foregoing requirement to decommission and remove the Permitted Improvements shall require the written approval of the Lessor. Any property, improvements, or Permitted Improvements left on the Premises after the passage of one hundred twenty (120) days after the Termination Date may, at the option of Lessor, be deemed to have been abandoned, and either may be retained by Lessor as its property, or may be disposed of in such manner as Lessor may see fit and at Lessee's sole cost; provided, however, that Lessor's election to retain all or any portion of the Permitted Improvements as its property shall relieve Lessee from any liability for its failure to remove such Permitted Improvements; and provided further, however, that the foregoing shall not apply to any property, improvements or Permitted Improvements of Lessee that are not timely removed if the failure to remove is caused by an event of *Force Majeure* or the negligent acts or omissions of Lessor (in which in either case the time period for removal shall be extended on a day for day basis).

6.2 Title. Title to the Permitted Improvements shall be in the Lessee; provided, however, that in the event that Lessor elects to retain any portion of the Permitted Improvements then existing on the Premises as Lessor's property pursuant to Section 6.1(b)(i) above, title to such portion of the Permitted Improvements shall automatically vest in Lessor without the necessity of any deed, conveyance or bill of sale thereon and without any representations or warranties by Lessee.

ARTICLE 7 -- LESSOR'S PERFORMANCE OF LESSEE'S OBLIGATIONS

7.1 Cures – Rights, Costs and Damages. If Lessee fails to make any payment required under this Lease beyond the expiration of all applicable notice and grace periods, or 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*"), Lessor, without being under any obligation to do so and without waiving such default, may make such payment and/or remedy such other default for the account and at the expense of Lessee, 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 Lessee shall fail to make such payment within sixty (60) days or remedy such default within sixty (60) days, or such longer period as may be required due to the

nature of such default (provided Lessee has commenced and is diligently prosecuting a cure), after Lessor notifies Lessee in writing of such default. Except in the case of an emergency or other event which requires an immediate response, Lessor's performance of Lessee's obligations in this Section 7.1 is subordinate to the right of any Leasehold Mortgagee to first cure such Lessee obligations, as provided in Section 15.4.b.

7.2 Step-in Rights/Step-out. If necessary to protect the public health and safety, regardless of whether Lessor exercises its rights pursuant to Section 7.1 of this Lease, Lessor shall have the right, but not the obligation, and to the extent permitted by Applicable Legal Requirements, to take possession of the Premises and the Permitted Improvements and to operate the Permitted Improvements, until Lessee demonstrates to the reasonable satisfaction of Lessor that the events giving rise to the endangerment of the public health and safety have been cured, and that Lessee has taken all reasonably necessary steps to ensure that such events shall not re-occur. Lessor shall not be liable to Lessee for any damages, losses or claims sustained by or made against Lessee as a result of Lessor's exercise of possession and operational control of the Permitted Improvements except to the extent such damages, losses or claims result from the negligence or willful misconduct of Lessor. Lessor's performance of Lessee's obligations in this Section 7.2 is subordinate to the right of any Leasehold Mortgagee to first cure such Lessee obligations, as provided in Section 15.4.b. Lessor and Lessor's representatives shall at all times comply with all reasonable safety and other operating procedures established by Lessee, and with all Applicable Legal Requirements.

ARTICLE 8 -- DUTY TO MAINTAIN

8.1 Lessee's Duty.

(a) Maintenance; Repairs. Subject to Articles 13 and 14, commencing upon and continuing after the date of Lessee's Notice of Commencement, Lessee shall take good care of the Permitted Improvements and perform its obligations with respect to the Premises, conduct all required maintenance and make all repairs to the Permitted Improvements, interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen, and shall maintain and keep the Permitted Improvements in accordance with Prudent Solar Industry Practice, reasonable wear and tear excepted. Such obligations, in addition to Lessee's obligations to maintain and repair the Permitted Improvements, shall include, but not be limited to, maintaining the Permitted Improvements in a condition of commercial operation, and taking all actions necessary or desirable to comply with the Applicable Legal Requirements.

(b) Utilities. Lessee shall make all arrangements for and pay directly to the entity providing the service, before delinquent, all charges for all utilities and services furnished to or used by it, including, without limitation, gas, electricity, water, steam, telephone service, trash collection and connection charges.

8.2 Public Safety. Lessor shall, as promptly as possible, notify Lessee of the occurrence of any event or the existence of any condition or circumstance that, in Lessor's reasonable judgment, poses an imminent threat or hazard to public health or safety (an "**Emergency**"). Lessor shall have the right (but not the obligation), to the extent permitted by

Applicable Legal Requirements, to enter the Premises for the sole purpose of responding to the dangerous condition; provided that any actions taken by Lessor upon such entry shall be limited to those reasonably necessary to respond to the Emergency. Lessee shall respond to any such Emergency as promptly as possible (which period of time shall not exceed 48 hours), and take all measures necessary to address the condition that gave rise to the Emergency.

8.3 Construction, Maintenance, and Monitoring of Solar Energy Facility.

(a) Lessor, at its sole cost and expense, and in accordance with Prudent Solar Industry Practice, shall at all times:

(i) have responsibility for the costs and performance of construction of the Solar Energy Facility, procuring and maintaining insurance on the Solar Energy Facility, and paying taxes on the Solar Energy Facility;

(ii) bear the risk of loss in case of a theft, damage, casualty, condemnation or confiscation of the Solar Energy Facility; and

(iii) remove the Solar Energy Facility from the Premises upon the termination or expiration of this Agreement.

(b) The Lessor shall have no obligation to perform any of the Lessee obligations set forth in subsection (a) above, and Lessee shall be solely responsible for the performance of all such obligations.

(c) In connection with its performance of the obligations set forth in subsection (a) above, Lessee may, in its reasonable discretion, elect to use subcontractors in performing all or any of such obligations, and the performance of any such obligation of Lessee by any such subcontractor shall satisfy such obligation; provided, however, that (i) each such subcontractor shall have performed such obligations in accordance with the standards of performance required of Lessee under this Agreement; and (ii) Lessee shall remain liable to Lessor for the performance of such obligations under this Agreement, notwithstanding Lessee's use of such subcontractors.

8.4 Lessor's Right to Re-Roof. If the Solar Energy Facility is mounted on the roof of a building, Lessee agrees that it shall bear the cost of moving the Solar Energy Facility, at the request of the Lessee and only if necessary, once during the Term to allow Lessor to re-roof the building. This will include removing the Solar Energy Facility from the roof, storing the Solar Energy Facility components at Lessee's expense or as arrangements allow for storage at the building, and re-installing the Solar Energy Facility as per the approved design and plans; *provided, however,* that (i) Lessor shall provide Lessee with at least thirty (30) days' prior written notice of its intent to re-roof the building, (ii) Lessor shall complete all re-roofing activities where the Solar Energy Facility was removed with thirty (30) days, weather permitting, and (iii) any new roof installed by Lessor on the Premises shall be suitable to support the continued operation of the Solar Energy Facility, as it existed and operated prior to such re-roofing installation. Lessee agrees that it will defend, indemnify and hold harmless Lessor for

any damages incurred as a result of Lessee's removal, storage, and re-installation of the Solar Energy Facility, and shall reinstall the Solar Energy Facility in a manner that will not jeopardize the warranty of the new roof as installed.

**ARTICLE 9 --
CONSTRUCTION AND OPERATION OF PERMITTED IMPROVEMENTS**

9.1 General Description. Except as otherwise specified herein, the Permitted Improvements shall consist solely of the improvements described in Exhibit B. Exhibit B attached hereto as of the Effective Date includes a preliminary description of the specifications of the major components of the Solar Energy Facility to be constructed by the Lessee. Lessee shall update Exhibit B to include a description of the Permitted Improvements prior to Lessee's commencement of construction of the Permitted Improvements.

9.2 Governmental Approval.

(a) Except as otherwise specified herein or in the Net Metering Power Purchase Agreement, if any, or otherwise obtained prior to the Effective Date, Lessee will obtain at its sole cost all Permits required for Lessee's use of the Premises, the Permitted Use, and the Permitted Improvements from any and all Governmental Authorities having jurisdiction in the matter. Lessee will promptly inform Lessor of all significant developments relating to the issuance of such Permits. If any changes in such plans and/or specifications are required by any Governmental Authority, then Lessee shall submit such changes, if any, to Lessor for its approval, which shall not be unreasonably conditioned, withheld or delayed.

(b) Lessor shall reasonably cooperate with Lessee so that Lessee can meet its obligations under this Lease and under the Net Metering Power Purchase Agreement. Lessor agrees to take all reasonable measures with respect to which it has legal capacity to facilitate and expedite the review of all local permits 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 the Board of Selectmen of the Town of Cohasset or [COMMITTEE/COMMISSION] has the authority to direct the outcome of any application submitted to any independent local permit issuing authority or that the Board of Selectmen of the Town of Cohasset or [COMMITTEE/COMMISSION] has the independent or concurrent authority to issue any permits or other such approvals for the Solar Energy Facility.

9.3 Development Commences Promptly. Lessee shall: (a) commence the necessary activities for the permitting, designing and engineering of the Permitted Improvements promptly following the Effective Date; (b) commence the necessary activities for the construction of the Permitted Improvements promptly following the date of its Notice of Commencement; and (c) proceed diligently and continuously thereafter until completion, subject to only a event of *Force Majeure*.

9.4 Completion Requirements. Lessee will arrange for the construction of the Permitted Improvements in a good, careful, proper and workmanlike manner in accordance with

Prudent Solar Industry Practice, the Net Metering Power Purchase Agreement, and all Applicable Legal Requirements. The Permitted Improvements will, when completed, comply with all Applicable Legal Requirements, and upon such completion, Lessee will obtain and deliver to Lessor a copy of each temporary certificate of occupancy (if applicable) and of the final certificate of occupancy (if applicable) before the Permitted Improvements shall be occupied or operated by Lessee, except that, if a temporary certificate of occupancy shall be issued, Lessee may occupy or operate the Permitted Improvements, as the case may be, under the provisions of such certificate and, except further that, if a certificate for any part of the Permitted Improvements shall be issued, Lessee may occupy the part so certified under the provisions of such certificate.

9.5 Construction Insurance. During the course of construction of the Permitted Improvements, Lessee will carry or cause Lessee's contractor(s) to carry (and cause each such contractor to cause its subcontractors to carry) adequate workers' compensation insurance and such other insurance as is specified in Article 5.

9.6 Access to and Use of the Premises. Subject to Article 8, during construction and operation of the Permitted Improvements, including, but not limited to, all related pre-construction activities, Lessee and its contractors or agents shall have access to the Premises at all times.

9.7 As-built Plans. Within ninety (90) days following the Full Operations Date, Lessee shall prepare and deliver to Lessor detailed as-built plans accurately depicting the Permitted Improvements including, without limitation, all underground structures.

9.8 Alterations. Lessee shall have the right from time to time both before and after the completion of the Permitted Improvements and at Lessee's sole cost and expense to make additions, alterations and changes, other than structural changes, to the Premises as is reasonably required to conduct the Permitted Use in compliance with the provisions of this Lease, subject, however, in all cases to the following:

(a) Except as set forth herein, no alteration shall be made which would tend to (i) materially change the general design, use, character or structure of the Solar Energy Facility, or (ii) reduce or impair, to any material extent, the use of the Solar Energy Facility for the generation of electricity, subject to applicable laws and safety standards (any such alteration, a "**Substantial Alteration**").

(b) No Substantial Alteration shall be commenced except after prior written notice to and consent from Lessor, which consent shall not be unreasonably conditioned, withheld or delayed by Lessor.

(c) Substantial Alterations shall not include any repairs or replacement of parts to the Permitted Improvements, as set forth in Section 2.1 and Exhibit B.

(d) Any Substantial Alteration shall be conducted under the supervision of a contractor, architect or engineer selected by Lessee and approved in writing by Lessor, which

approval shall not be unreasonably conditioned, withheld or delayed, and no such Substantial Alteration shall be made except in accordance with detailed plans and specifications and cost estimates prepared and approved in writing by such contractor, architect or engineer and approved in writing by Lessor, which approval shall not be unreasonably conditioned, withheld or delayed.

(e) Any alteration or Substantial Alteration shall be made with reasonable dispatch (*Force Majeure* events excepted) and in a good and workmanlike manner and in compliance with all applicable permits and authorizations and buildings and zoning laws, and with all other Applicable Legal Requirements.

(f) At or prior to completion of any Substantial Alteration, Lessee will provide Lessor with complete copies of all final plans and specifications therefor not previously provided.

9.9 Concealed Conditions. Prior to the Full Operations Date, Lessee may suspend its performance of its obligations under this Agreement if it encounters Concealed Conditions at the Premises.

(a) If the presence of or required remedy of such Concealed Conditions could reasonably be expected to cause a material increase in the length of time required for Lessee to perform its obligations under this Agreement, Lessee shall be entitled to a day-for-day extension in any deadline applicable to such performance under this Lease.

(b) If the presence of or required remedy of such Concealed Conditions could reasonably be expected to cause a material increase in Lessee's cost of performance of any of its obligations under this Lease, Lessee shall be entitled to terminate this Lease upon ten (10) days prior notice to Lessor; *provided, however*, that if the required remedy for such Concealed Conditions consists of the implementation of structural changes or improvements to the Premises that are required to support the Solar Energy Facility, in lieu of such termination, Lessee shall have the right to request Lessor (at Lessee's sole cost and expense) to use commercially reasonable efforts to implement the required structural changes or improvements in accordance with Applicable Legal Requirements.

(c) This Lease automatically terminates in the event Concealed Conditions result in termination of the Net Metering Power Purchase Agreement.

ARTICLE 10 -- LIENS

10.1 No Liens on Premises or Permitted Use. Lessee shall not create, or suffer to be created or to remain, and shall promptly discharge, any mechanic's, laborer's or materialman's lien or any mortgage upon the Premises, and Lessee will not suffer any other matter or thing arising out of Lessee's use and occupancy of the Premises whereby the estate, rights and interests of Lessor in the Premises or any part thereof might be impaired, except in accordance with and subject to the provisions of this Lease, including, without limitation, Article 15 below.

10.2 Discharge. If any mechanic's, laborer's or materialman's lien, or any mortgage, shall at any time be filed against the Premises, Lessee, within ten (10) days after notice to Lessee 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 Lessee shall fail to cause such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy, Lessor 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 Lessor and costs and expenses reasonably incurred by Lessor in connection therewith, together with interest thereon at the Interest Rate from the respective dates of Lessor's making of the payment of the cost and expenses, shall be paid by Lessee to Lessor within ten (10) business days of Lessor's invoice therefor.

10.3 No Liens on Permitted Improvements. Lessor 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 Permitted Improvements or the income therefrom, or any lien arising under or imposed in accordance with any Final Landfill Closure Permit and Post-Closure Permit, except to the extent any such lien as may be permitted to be placed upon or remain upon the Permitted Improvements in accordance with and subject to the provisions of this Lease, or arises other than as a result of the acts or omissions of Lessor.

ARTICLE 11 -- QUIET ENJOYMENT

11.1 Quiet Enjoyment. Lessor covenants that Lessee shall quietly have and enjoy the Premises throughout the Term and any extensions thereof. Lessor warrants and agrees that, throughout the Term and any extensions thereof:

(a) any other uses of the Premises by Lessor or any third party shall not unreasonably interfere with the Permitted Use and the operational requirements of the Permitted Improvements and shall not materially reduce the solar insolation available to the Solar Energy Facility; and

(b) Lessor shall, in good faith, use its best efforts to protect Lessee's quiet enjoyment of its rights hereunder.

Lessor's failure to carry out any of its obligations and duties under this provision shall be an Event of Default under Section 16.2 of this Lease, and Lessee shall be entitled to all of its rights and remedies with respect to such Event of Default as provided in this Lease. Lessor's exercise

of self-help pursuant to Article 7 and rights of entry and inspection pursuant to Section 11.2 shall not be considered a breach of the covenant of quiet enjoyment. Subject to the specific provisions of this Lease permitting the same, Lessor shall have the right to enter upon the Premises at reasonable times and upon reasonable prior notice, except in the case of emergency, for purposes reasonably related to the Permitted Use of this Lease and no such entry which complies with the provisions of this Lease permitting the same shall be considered a breach of the covenant of quiet enjoyment.

11.2 Inspection and Entry. During the course of construction and completion of the Permitted Improvements and any Substantial Alteration thereto, Lessee shall maintain all plans, shop drawings, and specifications relating to such construction which Lessor, 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. Lessor may, upon reasonable prior notice to Lessee, and when accompanied by an employee or agent of Lessee (unless Lessee does not make such employee or agent available to Lessor), enter upon the secured portion(s) of the Premises for the purpose of ascertaining their condition or whether Lessee is observing and performing the obligations assumed by it under this Lease, all without hindrance or molestation from Lessee, and to perform maintenance and services pursuant to Section 8.1. Lessor shall also have the right to enter upon the Premises, upon reasonable prior notice to Lessee, for the purpose of exercising its rights under Article 7. Lessor and Lessor's representatives shall at all times comply with all reasonable safety and other operating procedures established by Lessee, and with all Applicable Legal Requirements.

11.3 Limitation of Liability. Lessor may, during the progress of any work performed by Lessor pursuant to Article 7, Section 8.1 or Section 11.2, keep and store upon the Premises all necessary materials, tools, supplies and equipment, provided that Lessor shall use reasonable efforts to minimize the impact thereof on the normal operation of the Premises, and provided the risk of loss of such materials, tools, supplies, and equipment is that of Lessor unless such loss results from the negligence or intentional misconduct of Lessee, or of Lessee's agent, employee, or contractor. Lessor agrees to promptly remove such materials, tools, supplies, and equipment from the Premises upon completion of Lessor's work.

ARTICLE 12 -- INDEMNIFICATION

12.1 Indemnification of Lessor. Lessee shall indemnify and save harmless Lessor and each of its officials, employees, agents, and assigns (the "***Lessor 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 Lessor Indemnified Party by reason of any of the following occurrences during the Term, except to the extent such liabilities, losses, damages, penalties, costs, and expenses, including reasonable attorneys' fees, are caused by either (i) the gross negligence or intentional wrongful acts of the Lessor Indemnified Parties, or (ii) the failure or other breach by any Lessor Indemnified Party to perform any of its obligations under Applicable Legal Requirements or any Permit:

(a) any breach by Lessee of its obligations, covenants, representations or warranties contained in this Lease or made pursuant thereto;

(b) any negligence on the part of Lessee or any of its agents, contractors, servants, employees, subtenants, licensees or invitees in connection with the Permitted Use or Premises; and

(c) any failure on the part of Lessee or any of its agents, contractors, servants, employees, subtenants, licensees or invitees to comply with any Applicable Legal Requirements that require compliance by Lessee in connection with the Premises, the Permitted Use or the Permitted Improvements.

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

ARTICLE 13 -- DAMAGE OR DESTRUCTION; SHUTDOWN

13.1 Lessee Repair and Restoration. If, at any time during the Term, the Solar Energy Facility shall be substantially damaged or destroyed and rendered inoperable by fire or other occurrence of any kind, Lessee shall at its sole cost and expense either (a) repair or replace the Permitted Improvements, or (b) elect to terminate this Lease in which case Lessee shall decommission and remove the Permitted Improvements and promptly restore the Premises to substantially the same condition as existed prior to the Effective Date, except as otherwise specified in Section 6.1 of this Lease. Such removal, repair or replacement, including such changes and alterations as aforementioned and including temporary repairs, are referred to in this Article as the "**Work**."

13.2 Conditions of the Work. Except as otherwise provided in this Article 13, the conditions under which any Work is to be performed and the method of proceeding with and performing the same shall be governed by all of the provisions of this Lease.

13.3 Payment of Insurance Proceeds. All insurance money paid to Lessee on account of such damage or destruction under the policies of insurance provided for in Article 5, less the cost, if any, incurred in connection with the adjustment of the loss and the collection thereof (the "**Insurance Proceeds**"), shall be applied by Lessee to the payment of the cost of the Work to the extent such Insurance Proceeds shall be sufficient for the purpose. If the Insurance Proceeds received by Lessee shall not be sufficient to pay the entire cost of the Work or if Lessee finds that the Work is otherwise not economically justified, Lessee may elect not to repair and replace the Permitted Improvements, and to terminate this Lease pursuant to Section 13.1.

13.4 Failure to Commence Repairs. If the Work shall not have been commenced within one hundred eighty (180) days of the date of the casualty or other occurrence, or such longer period as may be reasonably required to adjust the insurance, achieve final plans and obtain all necessary Permits, or if such Work after commencement shall not proceed with due diligence (any *Force Majeure* event excepted), Lessor may terminate this Lease pursuant to Article 16. On such termination, the Insurance Proceeds received by Lessee shall be used to the extent necessary to demolish and remove the Permitted Improvements and any other structures on the Premises and to restore the Premises, except as otherwise specified in Section 6.1 of this Lease.

Upon the completion of such activities, Lessee shall have no further obligation to pay Lessor the Annual Lease Payment or any other amount under this Lease (other than payments due as of the effective date of termination and payments required by any provisions of this Lease that expressly survive termination).

13.5 Lessee Right to Terminate in Event of Shutdown. In the event a Governmental Authority decrees, orders or demands that operation of the Solar Energy Facility cease or that the Solar Energy Facility be removed from the Premises, Lessee shall have the right to terminate this Lease without penalty to either Party upon delivery to Lessor of thirty (30) days prior written notice.

ARTICLE 14 -- REMEDIES AND LIMITATION OF LIABILITY

14.1 Remedies. Subject to the limitations set forth in this Lease, Lessor and Lessee each reserve and shall have all rights and remedies available to it at law or in equity with respect to the performance or non-performance of the other Party hereto under this Lease. 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 Lease.

14.2 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 LEASE, 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.

ARTICLE 15 -- ASSIGNMENT, SUBLETTING, MORTGAGE

15.1 Prior Written Consent. Lessee shall not assign or in any manner transfer this Lease or any part thereof without the written consent of Lessor, which consent may not be unreasonably conditioned, withheld or delayed, except that in connection with: (i) an assignment or transfer to an Affiliate of Lessee (provided that such Affiliate's financial condition, creditworthiness and operational ability following the contemplated assignment or transfer are sufficient to permit Lessee to satisfy its obligations under this Lease, as reasonably determined by Lessor; (ii) in connection with financing for the Permitted Improvements with a Financier or (iii) the execution of a Leasehold Mortgage (as defined below) but not the subsequent assignment by a Leasehold Mortgagee to an entity other than another Leasehold Mortgagee, no prior notice to, or consent from, Lessor is required, provided that Lessee shall promptly notify Lessor after the date of assignment or transfer. Lessor shall consent to an assignment or other transfer if such assignee or transferee shall deliver evidence reasonably satisfactory to Lessor that assignee or transferee is sufficiently creditworthy and has adequate technical expertise to perform the obligations of Lessee under this Lease.

15.2 Financing by Leasehold Mortgage. Lessor is cognizant of the need of Lessee to finance its leasehold, access and easement interests in and to the Premises and the Permitted Improvements thereon, and therefore specifically agrees without any further request for prior consent to permit Lessee to mortgage, assign or transfer its leasehold interest in the Premises, together with its access and easements interests for the purpose of obtaining financing, which shall include equity and/or debt, provided:

(a) the term of such mortgage, assignment or transfer shall not exceed the Term;

(b) Lessee shall give Lessor notice of the existence of such mortgage, assignment or transfer, together with the name and address of the mortgagee, assignee or transferee, and a copy of the mortgage, assignment or transfer document within thirty (30) days of the execution of such mortgage, assignment or transfer; and

(c) in the event such Financing involves the assignment, transfer or sale of a majority of the membership interests in Lessee from _____ to a third-party, then as a condition of assignment, transfer or sale Lessee shall simultaneously enter into with _____ each of: (i) a development services agreement regarding the development and construction of the Solar Energy Facility; and (ii) an asset management services agreement with regard to the operation and maintenance of the Solar Energy Facility which shall have a term that at a minimum extends until the first (1st) anniversary of the Full Operations Date.

15.3 Release of Lessee. Lessee shall be relieved from its obligations under this Lease:

(a) by any whole disposition of Lessee's interest in this Lease in compliance with Section 15.1, 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 Lease, 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 a Leasehold Mortgagee, in which case the Leasehold Mortgagee shall substitute for the Lessee for purposes of this Lease; provided, however, that the Leasehold Mortgagee subsequently shall be entitled to assign its right under this Lease in accordance with the provisions of Section 15.1.

Absent express written consent of Lessor, the execution of a Leasehold Mortgage or any assignment from a Leasehold Mortgagee to another Leasehold Mortgagee shall not relieve Lessee from its obligations under this Lease.

15.4 Mortgagee Provisions. Any person or entity that holds or is the beneficiary of a first position mortgage, deed of trust or other security interest in this Lease or in any Permitted Improvements located on the Premises (any such first position mortgage, deed of trust or other security interest is referred to herein as a "**Leasehold Mortgage**," and any such beneficiary a "**Leasehold Mortgagee**") shall, for so long as its Leasehold Mortgage is in existence and until

the lien thereof has been extinguished, be entitled to the protections set forth in this Article XV. No Leasehold Mortgage shall encumber the interest of Lessor or Lessor's fee interest in and to the Premises, or Lessor's rights under this Lease.

(a) Leasehold Mortgagee's Right to Possession, Right to Acquire and Right to Assign. Pursuant to the provisions of this Section 15.4, a Leasehold Mortgagee shall have the right: (i) to assign its security interest; (ii) to enforce its lien and acquire title to the leasehold estate by any lawful means; and (iii) to take possession of and operate the Permitted Improvements or any portion thereof and to perform all obligations to be performed by Lessee hereunder, or to cause a receiver to be appointed to do so, subject to the terms and conditions of this Lease. Lessor's consent shall not be required for the Leasehold Mortgagee's acquisition of the encumbered leasehold estate created by this Lease, whether by foreclosure or assignment in lieu of foreclosure.

(b) Notice of Default; Opportunity to Cure. The Leasehold Mortgagee and any other Financier shall be entitled to receive notice of any default by Lessee, provided that such Leasehold Mortgagee or Financier shall have first delivered to Lessor a notice of its interest in the Leasehold Mortgage or such other interests in the Lessee, the Solar Energy Facility or the Permitted Improvements, in the form and manner, if any, provided by state laws, rules, regulations, Lessee's procedures, and the provisions of this Lease. If any notice shall be given of the default of Lessee and Lessee has failed to cure or commence to cure such default within the cure period provided in this Lease, then any such Leasehold Mortgagee or Financier, which has given notice as above provided, shall be entitled to receive an additional notice from Lessor that Lessee has failed to cure such default and such Leasehold Mortgagee shall have thirty (30) days after such additional notice to cure any such default or, if such default cannot be cured within thirty (30) days, to diligently commence curing within such time and diligently pursue such cure to completion within such time as Lessee would have been allowed pursuant to Section 16.1 but as measured from the date of such additional notice. The Leasehold Mortgagee or Financier shall have priority over Lessor to cure any default by Lessee pursuant to Section 7.1, or to take possession of the Premises and the Permitted Improvements and to operate the Permitted Improvements if necessary to protect the public health and safety pursuant to Section 7.2, except in either case as specified in such sections.

(c) Additional Leasehold Mortgagee Provisions. Lessor understands that Lessee's Leasehold Mortgagee or Financiers may request an amendment to this Lease to conform this Lease to Leasehold Mortgagee's or Financiers' underwriting requirements. Lessor agrees to cooperate with Lessee and such Leasehold Mortgagee to amend the terms of this Lease by agreeing to make such changes as are commercially reasonable and are commonly requested by Leasehold Mortgagees and Financiers which make similar loans to entities for projects which are similar to the Permitted Use, are located on municipal land, and have a lessor that is a municipal corporation.

ARTICLE 16 -- DEFAULT AND TERMINATION

16.1 Events of Default by Lessor. The following shall each constitute an Event of Default by Lessor.

(a) Lessor breaches or fails to perform or comply with any material covenant or agreement set forth in this Lease and such failure continues for a period of thirty (30) days after written notice thereof from Lessee to Lessor; provided that if Lessor 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, Lessor's time to do so shall be extended by the time reasonably necessary to cure the same.

(b) Fraud or intentional misrepresentation by Lessor with respect to any of the covenants or agreements of this Lease.

(c) Lessor has an Event of Default which results in termination under the Net Metering Power Purchase Agreement.

16.2 Events of Default by Lessee. The following shall each constitute an Event of Default by Lessee.

(a) Lessee fails to make any material payment due under the Lease within thirty (30) days after such payment is due unless such payment is contested, and payment of such uncontested amount is not made within thirty (30) days of Lessor's written notice to Lessee of such failure.

(b) Lessee breaches or fails to perform or comply with any material covenant or agreement set forth in this Lease and such failure continues for a period of thirty (30) days after written notice thereof from Lessor to Lessee; provided that if Lessee 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, Lessee's time to do so shall be extended by the time reasonably necessary to cure the same.

(c) Fraud or intentional misrepresentation by Lessee with respect to any of the covenants or agreements of this Lease.

(d) Lessee has an Event of Default which results in termination under the Net Metering Power Purchase Agreement.

(e) Lessee: (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 ninety (90) 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 (other than a Leasehold Mortgagee or Financier) 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 (vi) inclusive; or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

16.3 Force Majeure.

(a) If by reason of *Force Majeure*, either Party is unable to carry out, either in whole or in part, 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 event of *Force Majeure*, 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 event of *Force Majeure*; (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 a *Force Majeure* event affecting a Party continues for a period of one hundred eighty (180) days or longer, either Party may treat such an event as an Event of Default and may terminate this Lease.

16.4 Termination for Default.

(a) Upon the occurrence of an Event of Default, the non-defaulting Party at any time thereafter may give written notice to the defaulting Party specifying such Event of Default and such notice may state that this Lease and the Term shall expire and terminate on a date specified in such notice, which shall be at least thirty (30) days after the giving of such notice, and unless such Event of Default is earlier cured by the defaulting Party or, with respect to an Event of Default by the Lessee, either Lessee, a Financier or the Leasehold Mortgagee, this Lease shall terminate upon any termination date specified in such notice as though such date were the date originally set forth herein for the termination hereof.

(b) In the event this Lease is terminated as a result of an Event of Default by Lessee, Lessee shall remove the Solar Energy Facility from the Premises in accordance with the

provisions of this Lease and the Net Metering Power Purchase Agreement, provided that Lessor has not exercised its purchase option pursuant to Article 11 of such agreement.

16.5 Lessee Liability Upon Termination. Except as set forth in provisions surviving the termination of this Lease, as provided in Section 21.16, and except with respect to any amounts owed and due by Lessee prior to the date of termination, the termination of this Lease shall relieve Lessee of its liability and obligations under this Lease.

16.6 Additional Damages. If this Lease shall terminate as provided in Section 16.2, Lessor, in addition to any other rights under this Article 16, shall be entitled to recover as damages (i) the cost of performing any work required to be (but not) done by Lessee under this Lease, and (ii) the cost of placing the Premises to approximately the original condition of the Premises as of the Effective Date.

ARTICLE 17 -- LESSEE REPRESENTATIONS, WARRANTIES, AND COVENANTS

17.1 Lessee Representations and Warranties. As of the date of this Lease, Lessee represents and warrants to Lessor as follows.

(a) Lessee is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of _____ and is qualified to transact business in the Commonwealth of Massachusetts.

(b) Lessee has legal capacity to enter into and perform this Lease.

(c) The execution of this Lease has been duly authorized, and each person executing this Lease on behalf of Lessee has authority to do so and to bind Lessee.

(d) To Lessee's knowledge, there is 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 Lessee or its properties wherein any unfavorable decision, ruling, or finding would materially and adversely affect the validity or enforceability of this Lease or Lessee's ability to carry out its obligations under this Lease.

(e) To Lessee's knowledge, none of the documents or other written or other information furnished by or on behalf of Lessee to Lessor or Lessor's agents pursuant to this Lease 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.

17.2 Lessee Payment of Cost Covenants. Lessee covenants to Lessor that Lessee shall be responsible for all costs related to capital improvements to the Premises, including, without limitation, those costs necessary to construct, operate, maintain, repair, remove, replace, and expand the Permitted Improvements.

17.3 Lessee Additional Covenants. Lessee makes the following additional covenants to Lessor.

(a) Lessee shall promptly inform Lessor of the occurrence of any event that materially and adversely affects the operation of the Solar Energy Facility or the performance of Lessee's obligations under this Lease (including, but not limited to, any notices of default under any third party contract and the occurrence of any event that may result in the imposition of material liability or obligations on Lessee or Lessor under any Environmental Law).

(b) Lessee shall provide Lessor such other information as Lessor may reasonably request in order to review Lessee's compliance with the terms of this Lease.

ARTICLE 18 -- LESSOR REPRESENTATIONS, WARRANTIES AND COVENANTS

18.1 Lessor Representations and Warranties. As of the date of this Lease, Lessor represents and warrants the following to Lessee.

(a) Lessor is a municipal corporation.

(b) Lessor has legal capacity to enter into and perform this Lease.

(c) The execution of this Lease has been duly authorized, and each person executing this Lease on behalf of Lessor has authority to do so and to bind Lessor.

(d) To Lessor's knowledge, none of the documents or other written or other information furnished by or on behalf of Lessor to Lessee or Lessee's agents pursuant to this Lease 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.

18.2 Lessor Covenants. Lessor makes the following covenants to Lessee.

(a) Throughout the Term and any extensions thereof, Lessor and its officers, employees, contractors, agents, tenants, subtenants, servants, licensees and invitees shall not interfere or allow a third party to interfere with the solar patterns affecting the Permitted Improvements.

(b) [Intentionally omitted.]

(c) Throughout the Term and any extensions thereof, as provided in Section 11.1, Lessor shall protect Lessee's rights of quiet enjoyment.

(d) [Intentionally omitted.]

(e) Lessor shall promptly inform Lessee of the occurrence of any event that materially and adversely affects the operation of the Solar Energy Facility or the performance of Lessor's obligations under this Lease (including, but not limited to, any notices of default under any third party contract and the occurrence of any event that may result in the imposition of material liability or obligations on Lessee or Lessor under any Environmental Law).

(f) Lessor shall provide Lessee such other information as Lessee may reasonably request in order to review Lessor's compliance with the terms of this Lease.

ARTICLE 19 -- NO WAIVERS

19.1 No Implied Waivers – Remedies Cumulative. No covenant or agreement of this Lease shall be deemed to have been waived by Lessor or Lessee, 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 Lessor or Lessee 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 Lease to obtain consent or approval for any other act or matter. Lessor or Lessee 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 Lessor or Lessee from any other remedy it might have, either in law or in equity. The failure of Lessor or Lessee to insist upon the strict performance of any one of the covenants or agreements of this Lease 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 Lessor or Lessee herein specified or any other right or remedy that Lessor or Lessee 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.

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

19.3 Waiver of Termination for Convenience. Lessor hereby expressly waives any rights it may have to cancel this Lease or discharge any of its obligations hereunder on the basis that there may be a right of termination for convenience (whether it be express, implied or constructive) in contracts with public entities.

ARTICLE 20 -- ENVIRONMENTAL MATTERS

20.1 Pre-Existing Environmental Conditions.

(a) Lessee acknowledges and agrees that:

(1) all activities on the Premises, including but not limited to the construction, operation, maintenance, decommissioning and removal of the Solar Energy Facility, must be conducted in conformance with Applicable Legal Requirements and any Permit; and

(2) Lessee is familiar with the condition and all aspects of the Premises, and that it has approved and accepted the same.

(b) IT IS UNDERSTOOD AND AGREED THAT LESSOR IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO ENVIRONMENTAL CONDITIONS, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(c) LESSEE ACKNOWLEDGES AND AGREES THAT IT HAS LEASED AND SHALL ACCEPT THE PREMISES “AS IS, WHERE IS, WITH ALL FAULTS”. LESSEE HAS NOT RELIED AND WILL NOT RELY ON, AND LESSOR IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PREMISES OR RELATING THERETO MADE OR FURNISHED BY LESSOR, ITS EMPLOYEES, OR ANY AGENT REPRESENTING OR PURPORTING TO REPRESENT LESSOR, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING. LESSEE ALSO ACKNOWLEDGES THAT THE ANNUAL LEASE PAYMENT REFLECTS AND TAKES INTO ACCOUNT THAT THE PREMISES IS BEING LEASED “AS-IS.”

(d) LESSEE REPRESENTS TO LESSOR THAT LESSEE IS FAMILIAR WITH THE PREMISES AND HAS CONDUCTED INSPECTIONS AND INVESTIGATIONS OF THE PREMISES, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS LESSEE DEEMS NECESSARY OR DESIRABLE TO SATISFY ITSELF AS TO THE CONDITION OF THE PREMISES AND THE EXISTENCE OR NONEXISTENCE OF CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE PREMISES, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF LESSOR OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO. UPON THE EFFECTIVE DATE, LESSEE SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY LESSEE’S INVESTIGATIONS. LESSEE, UPON THE EFFECTIVE DATE, SHALL BE DEEMED, FOR AND ON BEHALF OF ITSELF AND ALL SUCCESSORS IN TITLE, TO HAVE WAIVED, RELINQUISHED AND RELEASED LESSOR (AND LESSOR’S EMPLOYEES AND AGENTS) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH LESSEE MIGHT HAVE ASSERTED OR ALLEGED AGAINST LESSOR (AND LESSOR’S EMPLOYEES AND AGENTS) AT ANY TIME BY REASON OF OR ARISING OUT OF PHYSICAL CONDITIONS (INCLUDING ENVIRONMENTAL CONDITIONS), VIOLATIONS OF ANY APPLICABLE LEGAL

REQUIREMENTS AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS OF OR REGARDING THE PREMISES.

20.2 Lessee's Obligations With Respect to Hazardous Materials.

(a) Lessee shall not cause, suffer or allow any Hazardous Materials to be used, generated or stored on, under or at the Premises without first receiving Lessor's written consent, which may be withheld in Lessor's reasonable discretion, provided, however, that Lessee may store and use at the Premises such Hazardous Materials as are customarily used to construct and maintain the Permitted Improvements, so long as the same are stored, used and disposed of in strict accordance with Applicable Legal Requirements and the location of any such storage is approved by Lessor, such approval not to be unreasonably conditioned, withheld or delayed.

(b) Lessee shall exercise best efforts to minimize any risks from the Premises, the Permitted Use, and the Permitted Improvements to the environment.

(c) Storage of all oil and Hazardous Materials shall be in strict accordance with Environmental Laws.

20.3 Notices of Release of Hazardous Materials. Lessee shall immediately notify Lessor of all Releases of Hazardous Materials on the Premises (such oral notification to promptly be followed with a written notification), including, without limitation, all Releases of Hazardous Materials for which Lessee has an obligation to report under M.G.L. c. 21E or other Applicable Legal Requirements, and all material notices, orders, fines, or communications of any kind received by Lessee from any Governmental Authority or third party concerning the presence or potential presence of Hazardous Materials on the Premises, the migration or suspected migration of Hazardous Materials from the Premises to other property, or the migration or suspected migration of Hazardous Materials from other property to the Premises.

20.4 [Intentionally Omitted].

20.5 [Intentionally Omitted].

20.6 Lessor Right to Inspect and Enter Premises. Subject to Section 11, Lessor and its officers, employees, contractors and agents shall have the right, but not the duty, to: (a) inspect areas of the Premises to determine whether Lessee is in compliance with Applicable Legal Requirements, and, if Lessor finds or reasonably suspects non-compliance by Lessee, Lessor shall promptly notify Lessee, and Lessee shall promptly take actions necessary or desirable to achieve or confirm such compliance; and (b) to enter the Premises for the purposes of complying with any obligations that Lessor may have under Applicable Legal Requirements with respect to the Premises.

ARTICLE 21 -- MISCELLANEOUS

21.1 Notices. All notices and other formal communications which either Party may give to the other under or in connection with this Lease 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; or facsimile transmission.

The communications shall be sent to the contacts identified in Exhibit C. Any Party may change its address and contact person for the purposes of this Section by giving notice thereof in the manner required herein.

21.2 Confidentiality. Except as provided in this Section 21.2, neither Party shall publish, disclose, or otherwise divulge Confidential Information to any person at any time during or after the term of this Lease, 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 Lease.

(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 Lessor is a public entity that is subject to certain public records disclosure statutes and regulations.

21.3 Severability. If any article, section, phrase or portion of this Lease 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 Lease 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 Lease and the benefits to the Parties are not substantially impaired, and 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.

21.4 Governing Law. This Lease 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.

21.5 Dispute Resolution. Unless otherwise expressly provided for in this Lease, the dispute resolution procedures of this Section 21.5 shall be the exclusive mechanism to resolve disputes arising under this Lease. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this Lease.

(a) Any dispute that arises under or with respect to this Lease 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 Lease or the transactions contemplated by this Lease.

(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 Lease.

(e) In any judicial action, the Prevailing Party (as defined below) shall be entitled to an award by the court of payment from the opposing Party of its reasonable costs and fees, including, but not limited to, attorneys' fees and travel expenses, arising from the civil action. As used herein, the phrase "**Prevailing Party**" shall mean the Party who, in the reasonable discretion of the finder of fact, most substantially prevails in its claims or defenses in the civil action.

21.6 Entire Agreement. This Lease, together with its exhibits, replaces, amends and restates the Original Site Lease in its entirety and contains the entire agreement between Lessee and Lessor with respect to the subject matter hereof and, with the exception of the Net Metering Power Purchase Agreement to which Lessee and Lessor are Parties, supersedes all other understandings or agreements, both written and oral, between the Parties relating to the subject matter hereof.

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

21.8 Singular and Plural, Gender. If two or more persons, firms, corporations or other entities constitute either Lessee or Lessor, the word “Lessee” or the word “Lessor” shall be construed as if it reads “Lessees” or “Lessors” and the pronouns “it,” “he,” and “him” appearing in this Lease shall be construed to be the singular or plural, masculine, feminine, or neuter gender as the context in which it is used shall require.

21.9 Press Releases. Each Party shall be permitted to make public statements with respect to this Lease or the Solar Energy Facility. Notwithstanding the foregoing, neither Party shall issue a written press release with respect to this Lease or the Solar Energy Facility without the prior written agreement of the other Party, such agreement not to be unreasonably withheld, conditioned or delayed, with respect to the form, substance and timing thereof; provided, that when the releasing Party is advised by its legal counsel that such a press release or public statement is required by law, regulation or stock exchange rules, the Parties shall use their reasonable good faith efforts to agree as to the form, substance and timing of such release or statement.

21.10 No Joint Venture. Each Party will perform all obligations under this Lease 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 the Lessee and Lessor hereunder are individual and neither collective nor joint in nature.

21.11 Joint Workproduct. This Lease shall be considered the workproduct of both Parties hereto, and, therefore, no rule of strict construction shall be applied against either Party.

21.12 Expenses. Each Party hereto shall pay all expenses incurred by it in connection with its entering into this Lease, including, without limitation, all attorneys’ fees and expenses. In the event this Agreement requires modification to respond to requirements of Financier, Lessee agrees to pay all reasonable expenses incurred by Lessor in connection with such modifications, including, without limitation, all attorneys’ fees and expenses.

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

21.14 Amendments; Binding Effect. This Lease 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 Lease or their successor in interest. This Lease inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.

21.15 Nondiscrimination. Lessee agrees that it shall not, because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap, or sexual orientation, either (a) discriminate against any qualified employee, applicant for employment, subcontractor, or person or firm seeking to provide goods or services to Lessee, 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. Lessee shall comply with all applicable federal and state statutes, rules, and regulations prohibiting discrimination in employment or public accommodation.

21.16 Survival.

(a) The provisions of Sections 8.1(a) (Maintenance; Repairs), 8.1(b) (Utilities), and 20.3 (Notices of Release of Hazardous Materials) shall survive the expiration or termination of this Lease for a period of one hundred twenty (120) days.

(b) The provisions of Sections 6.1 (Surrender and Removal of Property), 6.2 (Title), 13.4 (Failure to Commence Repairs), 16.5 (Lessee Liability Upon Termination), and 16.6 (Additional Damages) shall survive the expiration or termination of this Lease for a period of three (3) years.

(c) The provisions of Sections 8.1(c) (Compliance with Laws), 14.1 (Remedies), 14.2 (Limitation of Liability), 20.1 (Pre-Existing Environmental Conditions), 20.2 (Lessee's Obligations With Respect to Hazardous Materials), and Articles 12 (Indemnification) and 21 (Miscellaneous), shall survive the expiration or termination of this Lease indefinitely.

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

21.18 No Third-Party Beneficiaries. This Lease is intended solely for the benefit of the Parties hereto. Except as expressly set forth in this Lease, nothing in this Lease 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 Lease.

21.19 Further Assurances. From time to time and at any time at and after the execution of the Lease, 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 Lease that may be reasonably requested by the other for the purpose of effecting or confirming any of the transactions contemplated by the Lease. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section.

21.20 Good Faith. All rights, duties and obligations established by this Lease shall be exercised in good faith and in a commercially reasonable manner.

21.21 Net Metering Power Purchase Agreement. The Parties agree that this Lease shall take effect and the obligations of the Parties shall arise only upon simultaneous execution by the Parties of the Net Metering Power Purchase Agreement of even date herewith.

21.22 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 Lease, 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 Lease 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 Lease and to do so in a timely fashion.

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

[Signature page to follow.]

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

LESSOR

LESSEE

Town of Cohasset, a municipal corporation

By: _____

By: _____

By: _____

By: _____

By: _____

Approved as to Form:

By: _____

Mark C. Kalpin, Esq.
Special Town Counsel

Agreement as to Procurement:

By: _____

EXHIBIT A

DESCRIPTION OF THE PREMISES

Address:

Legal Description:

Description of the Premises (as further shown on the attached plan drawing): The area bounded by the dark black line depicted on the attached plan drawing, which Lessee periodically shall revise in accordance with the provisions of this Lease.

Limitation: Lessor and Lessee acknowledge and agree that the Premises shall be limited to (i) the area bounded by the dark black line depicted on the attached plan drawing or final design drawing, as applicable; (ii) the surface of the ground within such area; and (iii) the surface of the area of the Access Easement Area, the Construction Easement Area, and the Utility Easement Area.

EXHIBIT B

DESCRIPTION OF THE PERMITTED IMPROVEMENTS

Preliminary Specifications of Major Components of the Solar Energy Facility:

Nameplate Capacity:

EXHIBIT C
CONTACT INFORMATION

LESSOR:

[TOWN MANAGER]

Lessor's Counsel:

[COUNSEL]

LESSEE:

[LESSEE]

Lessee's Counsel:

[COUNSEL]