

SOLAR POWER PURCHASE AGREEMENT

This Solar Power Purchase Agreement (together with all Appendices referenced in its text as if set forth herein in full, this “**Agreement**”) is made and entered on May 11, 2021 (the “**Effective Date**”) by and between:

<p>Customer: Town of Falmouth, Maine</p> <p>Contact: Address: 271 Falmouth Road Falmouth, Maine 04105</p>	<p>Supplier: TES Presumpscot Solar 23 LLC</p> <p>Contact: Dean Musser Address: 204 Gale Lane Kennett Square, PA 19348</p>
<p>Phone: _____ (207) 699-5337 Fax: _____ Email: _____</p>	<p>Phone: 610 444-2800 ext 201 Fax: 610 444-2822 Email: dmusser@tangentenergy.com</p>
<p>Facility Location: Falmouth Transfer Station Contact: Jay Reynolds Address: 57 Woods Road Falmouth, Maine</p>	<p>System Description: Capacity: 1,187 kW DC</p> <p>Expected Annual Output: 1,500,000 kWh for the Initial Delivery Year, with a one (1%) percent degradation for each subsequent Delivery Year.</p> <p>Mounting: Ballasted Ground Mount</p> <p>Inverter: See Schedule F Meter: See Schedule F Module: See Schedule F Other Equip. See Schedule F</p>
<p>Phone: _____ (207) 699-5374 Fax: _____ Email: _____ jreynolds@falmouthme.org</p>	<p>Delivery Term: Initial Delivery Term: 20 years</p>
<p>Customer is (check one): <input checked="" type="checkbox"/> the owner and occupant of the Facility <input type="checkbox"/> the owner (but not the occupant) of the Facility <input type="checkbox"/> the lessor and occupant of the Facility.</p>	

Each of Customer and Supplier are sometimes referred to in this Agreement as a “**Party**” and collectively as the “**Parties.**”

Recitals

A. Customer wishes to have Supplier, and Supplier wishes to: (i) arrange for the design, procurement, installation and construction of the photovoltaic solar electricity generating system that meets the parameters described above (the “**System**”) at the Facility Location and interconnection of the System with the Utility, (ii) own, operate and maintain the System and (iii) sell all electricity generated by the System to Customer at the Facility.

B. Customer wishes to purchase from Supplier all of the electricity generated by the System subject to the Terms and Conditions, as set forth in this Agreement.

Agreement

NOW, THEREFORE, in consideration of the premises, the mutual promises and covenants set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Each of the following documents shall be deemed part of this Agreement and are incorporated herein by this reference as though set forth herein in their entirety:

Schedule A	Electricity Rate
Schedule B	Termination/Buyout Schedule
Schedule C	Customer's Facility and Easement Area
Schedule D	General Terms and Conditions
Schedule E	Customer-Specific Terms and Conditions
Schedule F	System Description

2. This Agreement, together with all Appendices and Schedules hereto, embodies the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties, verbal or written, relating to the subject matter hereof.

3. Any waiver of the provisions of this Agreement must be in writing and will not be implied by any usage of trade, course of dealing or course of performance. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Customer or Supplier shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

4. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party and neither shall be considered the agent of the other.

5. This Agreement is made and entered into for the sole protection and legal benefit of Customer and Supplier, and their permitted successors and assigns, and, except to the extent otherwise expressly set forth herein, no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

6. This Agreement may be modified only by a writing that is signed by both Parties.

7. If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions of this Agreement will remain in full force and effect.

8. Both Parties have been represented by counsel of their choice in connection with the negotiation, execution and delivery of this Agreement, and as such no provision of this Agreement shall be construed or interpreted for or against either Party based upon any contention that such provision was drafted solely by such Party or its counsel.

9. THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF MAINE, EXCLUDING ANY CHOICE OF LAW RULES THAT MIGHT DIRECT THE APPLICATION OF THE LAWS OF A DIFFERENT JURISDICTION, IRRESPECTIVE OF THE PLACES OF EXECUTION OR OF THE ORDER IN WHICH SIGNATURES OF THE PARTIES ARE AFFIXED OR OF THE PLACE OF PERFORMANCE.

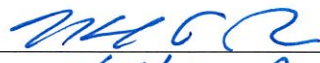
10. This Agreement may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives as of the Effective Date.

Supplier:
TES Presumpscot Solar 23 LLC

Customer:
Town of Falmouth Maine

By: 
Name: Dean W. Musser
Title: President & CEO

By: 
Name: Nathan A. Poore
Title: Town Manager

Pursuant to, and for purposes of, Article 13 of the General Terms and Conditions set forth in Schedule D, following execution of this Agreement by Supplier and Customer, Supplier may cause System Lender to execute a counterpart of this Agreement and deliver the same to each of Supplier and Customer.

System Lender:

By: _____
Name: _____
Title: _____
Date: _____

**Schedule A
Electricity Rate**

Electricity Rates:

Base Electricity Rate: \$0.079/kWh

Annual Adjustment: 0.0 %

Electricity Rate: The Electricity Rate shall be the Base Electricity Rate during the Term of the Agreement.

Schedule B
Termination/Buyout Schedule

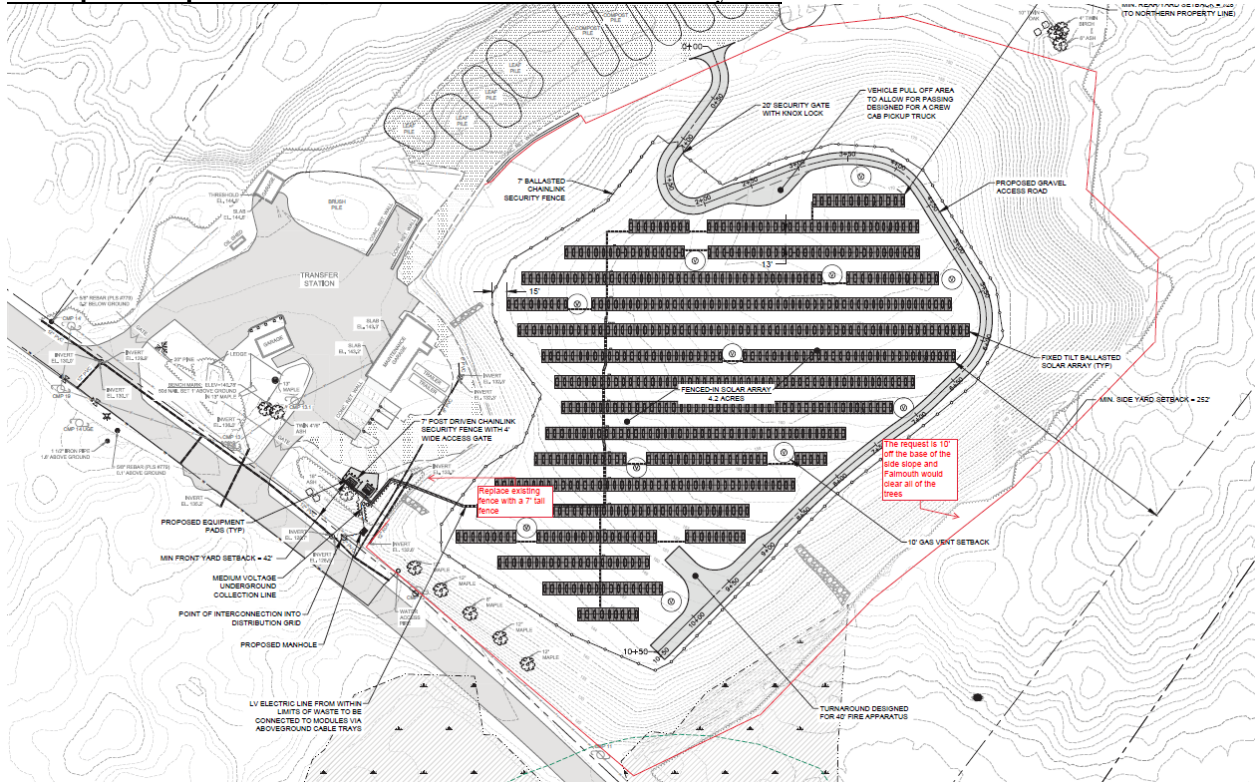
<u>Year of Determination</u>	<u>Termination Value/Purchase Price</u>
Initial Delivery Year	\$ 2,115,158
Delivery Year # 2	\$ 1,912,977
Delivery Year # 3	\$ 1,707,463
Delivery Year # 4	\$ 1,498,660
Delivery Year # 5	\$ 1,286,406
Delivery Year # 6	\$ 1,086,148
Delivery Year # 7	\$ 1,012,549
Delivery Year # 8	\$ 936,428
Delivery Year # 9	\$ 857,663
Delivery Year # 10	\$ 776,239
Delivery Year # 11	\$ 703,114
Delivery Year # 12	\$ 639,329
Delivery Year # 13	\$ 573,421
Delivery Year # 14	\$ 505,365
Delivery Year # 15	\$ 434,911
Delivery Year # 16	\$ 362,020
Delivery Year # 17	\$ 286,576
Delivery Year # 18	\$ 208,494
Delivery Year # 19	\$ 127,579
Delivery Year # 20	\$ 43,733

Schedule C Customer's Facility and Easement Area

Legal Description of Facility Location

Town of Falmouth Closed Landfill, Woods Road, Falmouth, Maine – Map R-1/Lot 4

Description/Map of Easement Area and General Location of System



“Easement Area” is that area within and including the security fence depicted on site-plan below.

Location of Point of Common Coupling

As noted on site-plan above.

Schedule D
General Terms and Conditions

[See Attached.]

General Terms and Conditions

Article 1 Definitions and Interpretation:

1.1. Definitions: Whenever used in this Agreement, the following terms shall have the following respective meanings when initially capitalized:

“Affiliate” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such first Person. For the purposes of this definition, “control” and its derivatives mean, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or otherwise. “Control” may be deemed to exist notwithstanding that a Person owns or holds, directly or indirectly, less than 50% of the beneficial equity interest in another Person.

“Agreement” means this Solar Power Purchase Agreement, including all exhibits, appendices and schedules attached hereto, as the same may be amended from time to time.

“Applicable Program” means a domestic, international or foreign renewable portfolio standard, renewable energy, emissions reduction or other report rights program, scheme or organization, adopted by a utility or governmental authority or otherwise, or other similar program with respect to which exists a market, registry or reporting for particular Environmental Attributes. An Applicable Program includes any legislation or regulation concerned with renewable energy, oxides of nitrogen, sulfur, or carbon, with particulate matter, soot, or mercury, or implementing the United Nations Framework Convention on Climate Change or the Kyoto Protocol thereto or crediting “early action” with a view thereto, or laws or regulations involving or administered by an administrator of such programs, or under any present or future domestic, international or foreign renewable energy credits, Environmental Attributes or emissions trading program. Applicable Programs do not include legislation providing for tax credits or other direct third-party subsidies for generation of electricity by or development of a renewable energy source.

“Buyout Schedule” means the termination payment and buyout schedule set forth in Schedule B entitled “Termination/Buyout Schedule.”

“Change in Law” means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation, including without limitation net energy billing pursuant to 35-A M.R.S. §3209-A or §3209-B and Chapter 313 of the Rules and Regulations of the Maine Public Utilities Commission, as may be amended from time to time (“Net Energy Billing”); (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by the Maine Public Utilities Commission, which, in the case of any of (i), (ii) or (iii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Supplier’s obligations hereunder and which has a material adverse effect on the cost to Supplier of performing such obligations, the Customer’s eligibility to participate in Net Energy Billing or the System’s eligibility to participate in Net Energy Billing.

“Claim” has the meaning set forth in Section 15.2.

“Confidential Information” has the meaning set forth in Section 17.18.

“Cover Sheet” means the applicable Cover Sheet to which these General Terms and Conditions have been incorporated.

“Delivery Term” has the meaning set forth in Section 9.2.

“Delivery Year” means the twelve (12) months after the In-Service Date, which shall be the “Initial Delivery Year” and each twelve-month period thereafter (each a “Delivery Year”).

“Easement” has the meaning set forth in Section 2.1.

“Easement Area” means the area described in the Easement Area Map, as the same may be modified in accordance with the terms and conditions hereof.

“Easement Area Map” has the meaning set forth in Section 2.2.

“Easement Term” has the meaning set forth in Section 2.5.

“Effective Date” has the meaning set forth in the first paragraph of this Agreement.

“Electricity Rate” has the meaning set forth in Schedule A entitled “Electricity Rate.”

“Environmental Attributes” means an aspect, claim, characteristic or benefit associated with the generation of a quantity of electricity by a renewable energy facility, other than the electric energy produced, and that is capable of being measured, verified or calculated. An Environmental Attribute may include one or more of the following identified with a particular kilowatt hour or megawatt hour of generation by a renewable energy facility designated prior to delivery of electricity: the renewable energy facility’s use of a particular energy source, avoided NOx, SOx, CO2 or greenhouse gas emissions, avoided water use or as otherwise defined under an Applicable Program. Environmental Attributes do not include tax credits or other direct third-party subsidies for generation of electricity by or development of any specified renewable energy facility.

“Event of Default” has the meaning set forth in Section 10.1.

“Extended Delivery Term” has the meaning set forth in Section 9.2.

“Facility” means Customer’s facility more specifically described in Schedule C entitled “Customer’s Facility and Easement Area”.

“Facility Owner” has the meaning set forth in Section 2.1.

“Facility Owner Easement Agreement” means an agreement duly executed by Facility Owner, in form and substance reasonably satisfactory to Supplier, granting to Supplier the Easement and agreeing to be bound by the provisions of Article 13.

“Fair Market Value” means the fair market value of the System determined in accordance with the rules and regulations of the Internal Revenue Service as described in Section 8.5.

“Force Majeure” means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force

Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition; action of the elements; hurricane; flood; lightning; wind; drought; peril of sea; the binding order of any governmental authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any governmental authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the Utility grid, equipment, supplies or products, but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence; failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

“Governmental Authority” means any (a) federal, state, local, municipal or other government; and (b) governmental or quasi-governmental authority of any nature (including any governmental division, subdivision, department, agency, bureau, branch, office, commission, council, board, instrumentality, officer, official, representative, organization, unit, body or entity and any court or other tribunal), which lawfully exercise or are entitled to exercise any executive, legislative, judicial, administrative, regulatory, police, military or taxing authority or power of any nature over the Premises and Parties.

“Hazardous Substances” means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollution,” “pollutants,” “regulated substances,” or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.

“Customer” means the customer identified on the first page of this Agreement.

“In-Service Date” means the date on which the System has been substantially installed and tested and is ready to commence commercial operations for the delivery of electricity pursuant to the terms and conditions hereof, as notified by Supplier to Customer in accordance with Section 5.3.

“Indemnified Party” has the meaning set forth in Section 15.1.

“Indemnifying Party” has the meaning set forth in Section 15.1.

“Initial Delivery Term” has the meaning set forth in the Cover Sheet.

“Insolvency Proceeding” means any case, action or proceeding with respect to a Person before any court or other governmental authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other similar arrangement in respect of its creditors generally or any substantial portion of its creditors.

“Insolvent” means if a Party (i) ceases or fails to be solvent, or generally fails to pay, or admits in writing its inability to pay, its debts as they come due, (ii) voluntarily ceases to conduct its business in the ordinary course, (iii) commences any Insolvency Proceeding with respect to itself, or (iv) takes any action to effectuate or authorize any of the forgoing; or in the event that (a) any involuntary Insolvency Proceeding is commenced or filed against the Party, or a writ, judgment, warrant of attachment, execution or similar process is issued or levied against a substantial part of the Party’s properties, and any such proceeding or petition shall not be dismissed, or such writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or fully bonded within one hundred and eighty (180) days after commencement, filing or levy; (b) the Party admits the material allegations of a petition against it in any Insolvency Proceeding, or an order for relief (or similar order under non-U.S. law) is ordered in any Insolvency Proceeding; or (c) the Party acquiesces in this appointment of a receiver, trustee, custodian, liquidator, mortgagee in possession (or agent therefore), or other similar Person for itself or a substantial portion of its property or business.

“Installation Notice” has the meaning set forth in Section 5.1.

“Liabilities” has the meaning set forth in Section 15.1.

“Lien” means any mortgage, pledge, lien (including mechanics’, labor or materialman’s lien), charge, security interest, encumbrance or claim of any nature on or with respect to the Facility or the Premises or any interest therein.

“Party” or “Parties” means, individually, Customer or Supplier and, together, Customer and Supplier.

“Person” means any individual, corporation, partnership, limited liability company, association, joint stock company, trust, unincorporated organization, joint venture, government or political subdivision or agency thereof.

“Point of Common Coupling” or other similar term applicable to particular Utility tariff has the meaning defined in the Utility’s tariff applicable to interconnection of the System. In the case of Utility, the applicable tariff is Central Maine Power’s tariff.

“Premises” means the real property upon which the Facility is located.

“Prime Rate” means the interest rate (sometimes referred to as the “base rate”) for large commercial loans to creditworthy entities announced from time to time by JP Morgan Chase Bank, N.A. (New York), or its successor bank, or, if such rate is not announced, the rate published in The Wall Street Journal as the “prime rate” from time to time (or, if more than one rate is published, the arithmetic mean of such rates), in either case determined as of the date the obligation to pay interest arises.

“Purchase Price” has the meaning set forth in Section 8.5.

“Qualified Assignee” means any Person having experience similar to or better than Supplier in operating and maintaining photovoltaic solar systems; provided, however, that the foregoing condition may be satisfied by such Person having contracts or other arrangements in place to provide qualified maintenance, administrative and technical personnel with the necessary experience to operate and maintain the System in accordance with the requirements of this Agreement.

“Representatives” has the meaning set forth in Section 17.18.

“Supplier” has the meaning set forth in the Cover Sheet.

“Supplier Permits” means the approval of the Utility and all other governmental and non-governmental agency approvals as are necessary for the installation and operation of the System.

“System” has the meaning set forth in Recital A.

“System Financing” has the meaning set forth in Section 13.1.

“System Lender” has the meaning set forth in Section 13.1.

“Taxes” means any and all new or existing ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes or similar charges, and any increases in the same, but “Taxes” does not include income taxes or other similar taxes based on income or net revenues.

“Term” has the meaning set forth in Section 9.1.

“Utility” means the 1) electric generation supplier; or 2) the electric distribution system owner and/or operator, each providing electric generation, electric distribution and interconnection services to Customer at the Facility as applicable.

1.2. Interpretation: Unless otherwise required by the context in which any term appears: (a) initially capitalized terms used in this Agreement have the meanings specified in Section 1.1, or as otherwise defined in this Agreement; (b) where a word or phrase is specifically defined, other grammatical forms of such word or phrase have corresponding meanings; (c) the words “herein,” “hereunder” and “hereof” refer to this Agreement, taken as a whole, and not to any particular provision of this Agreement; (d) “including” means “including, for example and without limitation,” and other forms of the verb “to include” are to be interpreted similarly; (e) all references to a given agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made; (f) the masculine gender shall include the feminine and neuter and the singular number shall include the plural, and vice versa; and (g) reference to any law shall mean any

such law as amended through the date as of which such reference is made and shall include any rules or regulations promulgated in connection therewith. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

Article 2 Grant of Easement:

2.1. Easement: Customer hereby grants to Supplier and its agents, employees and contractors, a non-exclusive easement (the “**Easement**”) on, over, under, across the Easement Area for the purposes of (a) access by personnel, equipment, and utilities, (b) constructing, installing, erecting, maintaining, owning, operating, accessing, replacing and removing the System and ancillary equipment, (c) performing all of Supplier’s obligations hereunder, and (d) installing, using and maintaining utility lines in connection with the operation of the System, including for electricity, telephone or other utilities. The Easement includes the right of access to the Easement Area, twenty-four (24) hours per day, seven (7) days per week, subject to the provisions of this Agreement. Under the Easement, and subject to and in accordance with this Agreement, Supplier shall have the right from time to time to access the Facility and Premises with guests for promotional purposes during Customer’s normal business hours and at other times as are acceptable to Customer in its reasonable judgment, provided that Supplier shall provide prior notice to Customer. Upon Supplier’s request, Customer shall, or shall cause the Facility Owner to, execute and acknowledge before a notary public, in recordable form, a short form Memorandum of Easement to be recorded in the Official Records of the county in which the Premises is located.

2.2. Easement Area: A preliminary description of the Easement Area boundaries is set forth Schedule C entitled “Customer’s Facility and Easement Area” (the “**Easement Area Map**”). As soon as reasonably possible after the Effective Date (but in any event prior to the issuance of the Installation Notice), the Parties shall cooperate to prepare and approve a more detailed and final description of the Easement Area boundaries, and shall execute the same and attach it hereto in replacement of the original Easement Area Map. Supplier will be responsible for the cost of preparing the final description of the Easement Area. Supplier will ensure the design and construction of the System includes perimeter fencing. During the Term, Customer shall cooperate with Supplier to modify the Easement Area to accommodate any reasonable requirements of Supplier.

2.3. No Interference: Until the end of the Easement Term, Customer shall (a) not take any action that would interfere with Supplier's Easement rights and access to the Easement Area, and (b) use reasonable efforts to prevent Supplier's Easement rights and access to the Easement Area from being jeopardized through the acts of third Persons.

2.4. Covenants Run with the Land. Until the end of the Easement Term, the covenants of the Parties made in Article 2 of this Agreement shall be deemed to be covenants running with, binding upon, benefiting and burdening the land pursuant to applicable law.

2.5. Easement Term. Supplier shall enjoy the rights, benefits and privileges conveyed by the Easement commencing on the Effective Date until the end of the Easement Term, which shall occur upon the earlier of: (a) such time as the System is removed by Supplier or abandoned by Supplier, meaning that Supplier fails to operate and maintain the System for a continuous period of ninety (90) days and (b) closing date of the Customer's purchase of the System pursuant to Section 8.5, at which time all right, title and interest in the Easement shall revert to the then owner of the Premises.

Article 3 Conditions to Supplier's Obligations

3.1. Conditions to Supplier's Obligations: Supplier's obligation to commence performance of any obligations under this Agreement other than those set forth in Section 4.1, is conditioned upon the satisfaction or waiver of the conditions listed below. If within ninety (90) Days after the Effective Date any condition precedent is not met and Supplier does not waive the condition precedent in writing, then Supplier shall have the right to immediately cancel this Agreement, and thereafter, subject to Section 11.1, shall have no further obligation or liability hereunder.

(a) Supplier shall have determined, acting reasonably and in good faith, that the System can, in accordance with applicable laws and rules, including but not limited to 38 MRSA section 1306 and Chapter 401 of the Maine Department of Environmental Protection Solid Waste Management Rules governing Landfill Siting, Design and Operation, and prudent industry practices, be mounted in the manner identified on the Cover Sheet.

(b) There is an electrical interconnection point at which the System can be interconnected in accordance with the Utility's applicable tariffs,

applicable laws, and prudent industry practices, without material modification to the interconnection point or the Utility's grid.

(c) There are no site conditions or construction requirements unknown to Supplier (after exercise of reasonable diligence) prior to the Effective Date that would materially increase the cost of installing the System or would adversely affect the amount of electricity that can be generated by the System.

(d) The System qualifies to receive the rebate or other incentive payments and there is no material adverse change in the subsidy program or federal tax code that would adversely affect the economics of the System for Supplier, any System Lender or Supplier's investors.

(e) Supplier has secured binding commitments for the System Financing.

(f) Customer has delivered such documents and other information reasonably requested by Supplier to be delivered prior to the In-Service Date in accordance with the terms and conditions of this Agreement.

Article 4 System Development Obligations

4.1. Supplier: Supplier shall use reasonable efforts (at its sole cost and expense) to obtain all applicable (i) governmental permits, consents and authorizations that may be required to install and maintain the System and otherwise perform its obligations under the Agreement; (ii) agreements, consents and authorizations that may be required to interconnect the System with the Utility; (iii) consents and authorizations that may be required to install and maintain the System and otherwise perform its obligations under the Agreement; and (iv) financing for the supply, construction, installation and ownership of the System. Supplier shall also use all reasonable efforts to complete conceptual drawings depicting the final commercially reasonable and financeable design and lay-out of the System for review and approval by Customer, which approval shall not be unreasonably withheld. Customer shall reasonably cooperate as requested by Supplier to accomplish the foregoing, provided that Customer shall not be obligated to incur any out-of-pocket costs or expenses in connection therewith unless reimbursed by Supplier.

4.2. Customer: Customer shall (a) use all reasonable commercial efforts to cooperate with and support Supplier in obtaining all applicable approvals

from the Utility, enter into such agreements with the Utility and make such elections of service under the Utility's tariffs as are necessary or appropriate to permit Customer to take delivery of electricity generated by the System, including those necessary for Customer to take service under the Net Energy Billing program and such other actions as Supplier may reasonably request, (b) take all actions required under any applicable governmental or Utility incentive or rebate program in order for Customer and the System to qualify to receive such incentives or rebates, and (c) assign any rights it may have to receive any such governmental or Utility incentives or rebates to Supplier, provided, that if, under the terms and conditions associated with the applicable incentive or rebate program, such rights may not be assigned, Customer shall promptly remit directly to Supplier any amount of such incentives or rebates received. The foregoing shall not require that Customer assign or otherwise pay to Supplier any net-metering or other similar credits received in connection with delivering electricity into the Utility's distribution grid. Supplier shall reasonably cooperate as requested by Customer to accomplish the foregoing, provided that Supplier shall not be obligated to incur any out-of-pocket costs or expenses in connection therewith unless reimbursed by Customer.

Article 5 System Installation

5.1. Installation Notice: On the date that Supplier determines, in its sole discretion, that all activities set forth under Article 4 have been satisfied and Supplier is able to commence installation of the System, Supplier shall issue written notice to that effect to Customer (the "**Installation Notice**"). If, for any reason, Supplier does not issue the Installation Notice within one hundred and eighty (180) days following the Effective Date or, if on any date prior to such 180th day Supplier determines in its reasonable discretion that completion of the activities described in Article 4 is not feasible, Supplier shall have the right to cancel this Agreement, without further liability, on written notice to Customer.

5.2. Installation: After issuance of the Installation Notice, and until the In-Service Date, Supplier shall at its sole cost and expense arrange for the complete design and installation of the System. Supplier shall cause the System to be installed in a manner that minimizes inconvenience to and interference with Customer's and Customer's invitees' use of the Facility to the extent commercially practical. Customer acknowledges that certain obligations hereunder, including installation of the System, will

be performed by licensed contractors and subcontractors engaged by Supplier; Supplier shall be permitted to use such duly licensed contractors and subcontractors, but the use of any such contractor or subcontractor shall not relieve Supplier of any of its obligations hereunder, including the general obligation to provide any work in accordance with applicable industry standards.

5.3. In-Service Date: Following issuance of the Installation Notice, Supplier shall use all reasonable efforts to have installation of the System completed within three hundred sixty five (365) days after issuance of such notice (the "Outside Commercial Operation Date"). If Supplier has not completed installation of the System on or before the Outside Commercial Operation Date, Customer may terminate this Agreement by written notice to Supplier within ten days following the Outside Commercial Operation Date. Given the exercise of reasonable diligence by Supplier to install the System, the Outside Commercial Operation Date shall be extended by the number of days the installation of the System is delayed due to: (i) the failure of the Utility to grant Supplier permission to operate the System and (ii) construction delays beyond the reasonable control of Supplier. Supplier shall provide Customer with a final written notice indicating that the In-Service Date has occurred, and the actual date on which it occurred.

Article 6 Generation, Delivery, Purchase and Sale of Electricity

6.1. Generation, Delivery and Sale of Electricity: During the Delivery Term, Supplier shall operate and maintain the System such that, subject to the System having access to adequate sunlight, it is capable of generating electricity. Supplier shall make all electricity generated by the System available for delivery to, and purchase by, Customer at the Point of Common Coupling. Notwithstanding anything herein to the contrary, but without prejudice to the System Output Guarantee as detailed in Section 7.6, under no circumstances shall Supplier be obligated to produce or deliver electricity to Customer in excess of the amount that is actually generated by the System.

6.2. Acceptance and Purchase of Electricity: Customer shall accept and purchase from Supplier all of the electricity generated by the System and made available for delivery and sale at the Point of Common Coupling without regard to Customer's actual electricity requirements.

6.3. Metering and System Monitoring:

6.3.1. System Metering. Electricity delivered to the Facility shall be measured using a utility grade kilowatt-hour meter installed by Supplier and located on the System at or prior to the Point of Common Coupling. Such meter shall meet revenue grade standards set by the American National Standards Institute, C12.20 or similar class applicable to the electric utility industry. Supplier shall maintain the meter in accordance with industry standards. Upon Customer's written request, which may be issued no more frequently than once per calendar year during the Delivery Term, Supplier shall furnish a copy of recent verification from a mutually agreed upon independent third party inspection of all technical specifications, accuracy calibrations for the meter and a testing of the meter and metering equipment. If testing of the metering equipment indicates that such equipment is in error by more than two percent (2%), then Supplier shall promptly repair or replace such equipment at its own cost. Supplier shall make a corresponding adjustment to the records of the amount of electricity delivered by the System based on such test results for (i) the actual period of time when such error caused inaccurate meter readings, if that period can be determined to the mutual satisfaction of the Parties, or (ii) if such period cannot be so determined, then a period equal to one-half of the period from the later of the date of the last previous test confirming accurate metering or the date the meter was placed into service, but not to exceed twelve (12) months. If testing is conducted pursuant to Customer's request and testing indicates that the metering equipment is in error by two percent (2%) or less, Customer and Supplier shall each be responsible for fifty percent (50%) of the reasonable costs of the testing.

6.3.2. System Monitoring. Supplier will, at its expense, provide and install equipment necessary to remotely monitor the System and electricity generated thereby. Supplier shall provide Customer with real time access to the System remote metering and data logging information, to include providing a link for such information on Customer's website.

6.4. Billing:

6.4.1. Monthly Energy Charges. Customer shall pay each month to Supplier the electricity charges calculated pursuant to Schedule A entitled "Electricity Rate." Such charges shall be calculated as the sum of (i) the product of the number of kWh generated by the System as measured by the meter

installed pursuant to Section 6.3.1 and the Electricity Rate.

6.4.2. Monthly Invoices. Supplier shall deliver to Customer monthly electronic statements and invoices. Such monthly invoices shall state (i) the amount of electricity generated by the System, (ii) the rates applicable to, and charges incurred by, Customer under this Agreement, (iii) other amounts due from Customer hereunder and (iv) the total amount due from Customer to Supplier.

6.4.3. Utility Invoices. Customer shall be responsible for and shall pay all taxes, and other charges that are imposed upon the sale or delivery of electricity from Supplier to Customer under this Agreement, regulatory fees, exit fees, and surcharges. Customer shall pay directly, or reimburse Supplier for, all such charges as they may be assessed by the Utility.

6.4.4. Payment Terms. All amounts due under this Agreement shall be paid within thirty (30) days of presentment of an invoice for the amounts owing. Any undisputed portion of the invoice amount not paid within the thirty (30) day period shall bear interest at the annual rate of two and one-half percent (2.5%) over the Prime Rate (but not to exceed the maximum rate permitted by law).

6.4.5. Method of Payment. Customer shall make all payments under this Agreement by electronic funds transfer in immediately available funds to the account designated in the invoice issued by Supplier pursuant to Section 6.4.2. All payments made hereunder shall be made free and clear of any tax, levy or assessment. Upon receipt of written direction and instructions from Supplier and System Lender, all payments to be made by the Customer to Supplier under this Agreement shall be made directly to System Lender or its agent designated in a writing addressed to Customer from time to time.

6.4.6. Payment Disputes. If a dispute arises with respect to any invoice submitted or any payment owed by one Party to the other Party hereunder, the Parties shall attempt to resolve such dispute amicably. If the Parties cannot resolve the dispute within fourteen (14) days following delivery of written notice of the dispute, either Party may, on written notice to the other Party, direct that the dispute be resolved in accordance with Section 17.6; provided that, during the time a dispute is pending, the disputing Party shall not be deemed in default under this Agreement and the Parties shall not suspend the performance of their respective

obligations hereunder, including payment of undisputed amounts owed hereunder. No Party may withhold, deduct or set-off against amounts or credits owed by such Party to the other Party any undisputed amounts during the time that a dispute is pending.

6.5. Transfer of Title to Electricity: Title to all electricity delivered, sold and purchased hereunder shall transfer from Supplier at the Point of Common Coupling in accordance with the Net Energy Billing rules and regulations.

Article 7 Supplier Obligations

7.1. Operations and Maintenance of the System: During the Delivery Term, Supplier shall perform all routine and emergency repairs, maintenance and operation of the System. Supplier shall provide all labor, material and other supplies necessary to perform such maintenance, repair or operation. In the event of any unforeseen problems operating the System due to changes in conditions at the Facility that are not caused by the Supplier or due to the inaccuracy of any material information provided by Customer and relied upon by Supplier, the pricing, schedule and other terms of this Agreement shall be equitably adjusted to compensate for any additional work required or performed by Supplier as a result.

7.2. Repairs: Supplier shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper use or operation of the System by anyone other than Supplier or its agents, contractors or subcontractors. Supplier shall be responsible for repairing, pursuant to prudent industry practices, damage to the Facility, to the extent such damage is caused by Supplier. Supplier shall not be liable for any damage to the System or the Facility resulting from the acts or omissions of Customer, its customers, invitees, any failure of Customer to perform its obligations hereunder, or a Force Majeure event. In the event of a problem with the System for which Supplier is not responsible as provided in this Agreement, Customer shall pay Supplier for diagnosing and correcting the problem at the standard rates for labor charged by Supplier or its subcontractors for the performance of the relevant services; provided, however, that Customer shall have no obligation to pay such costs to the extent that such services are required due to the occurrence of a Force Majeure event.

7.3. OSHA Compliance: Supplier shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other applicable laws are adhered to

in its construction and operation of the System pursuant to this Agreement.

7.4. Liens and Payment of Subcontractor and Suppliers: Supplier shall pay when due all valid charges from all subcontractors and suppliers supplying goods or services to Supplier. All such charges shall be the sole responsibility of Supplier. Supplier shall indemnify Customer for all claims, losses, damages, liabilities and expenses resulting from any Liens filed against the Facility or the Premises by such subcontractors or suppliers in connection with the System. Supplier shall have the right to contest any such Lien, provided, that Supplier bonds over such Lien or provides Customer with other assurances of payment reasonably satisfactory to Customer in the amount of such Lien.

7.5. System Warranty: Supplier warrants that its personnel, agents, contractors and subcontractors shall be qualified and capable of performing their relevant obligations with respect to the design, installation and operation, of the System. Supplier warrants that all construction work shall be performed in accordance with generally accepted professional standards of good and sound construction practices for facilities of similar purpose and scope as the System. Supplier warrants that the construction work and material furnished in connection therewith (excluding the photovoltaic solar panels and inverters) shall be free from defects in design, engineering, construction and workmanship, and shall conform in all material respects with the applicable requirements of federal, state and local laws, licenses and permits, and applicable construction codes and standards. Supplier warrants that the photovoltaic solar panels and inverters incorporated into the System will be new and subject to performance and replacement warranties provided by the relevant manufacturer, which warranties shall be consistent with relevant industry standards. Supplier shall provide copies of such warranties to Customer. If Customer elects to purchase the System pursuant to [Section 8.5](#), Supplier shall, to the extent permitted by such warranties, assign beneficial interest in any such warranties then in effect to Customer.

7.6. System Annual Output Guarantee: Supplier shall provide Customer with an annual output guarantee from the System effective on the commencement of the Delivery Term and continuing until the twentieth (20th) anniversary of the commencement of the Delivery Term, or the early termination of this Agreement, whichever comes first. Supplier shall guarantee System output to be no

less than 90% of the expected annual output of the final System design, as set forth on the Cover Sheet of this Agreement, for the first twenty (20) years of the Delivery Term. To the extent that the System output shall fall below the limits set forth in the preceding sentence in any contract year during the first twenty (20) years of the Delivery Term, Supplier shall, as Customer's sole and exclusive remedy with respect to the Supplier's failure to meet its obligations under this system annual output guarantee, reimburse the Customer for the difference between the Customer's actual billed cost for electricity and the pricing set forth in this Agreement with respect to the amount of the deficiency; provided, however, that Customer has not caused such deficiency by failing to meet its obligations hereunder, including with respect to Section 12.1 or Section 12.2 hereof.

7.7. Maintenance of Easement Area: During the Delivery Term, Supplier will mow and maintain groundcover over the Easement Area so as to enable operation of the System pursuant to industry standards. [NTD: Per 8.1, Customer shall maintain its landfill (a.k.a the Facility) which includes the Easement Area. Supplier will be responsible for any damage it causes (7.2) and be responsible for mowing the Easement Area (7.7). Town to specify any further maintenance or security requirements of Supplier in 7.7.]

Article 8 Customer Obligations

8.1. Maintenance of Facility: Customer shall, at its sole cost and expense, maintain the Facility, including the Easement Area, subject to Supplier's obligations in Section 7.7 above. Customer shall promptly notify Supplier of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System.

8.2. Alteration of Facility: Customer shall not undertake any structural alterations or repairs to the Facility which may adversely affect the operation and maintenance of the System without the prior written consent of Supplier. If Customer wishes to undertake such alterations, Customer shall give reasonable prior written notice to Supplier, setting forth the work to be undertaken (except in the event of emergency repairs, in which event notices may be given by telephone), and offer Supplier the opportunity to advise Customer in conducting the structural work in a manner that shall not result in damage to, or adversely affect, the operation of the System. Notwithstanding any advice Supplier provides

concerning the structural work to be undertaken, Customer shall be responsible for all damages to the System resulting therefrom.

8.3. OSHA Compliance: Customer shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other applicable laws are adhered to for the Facility and its own activities within the Easement Area as permitted under this Agreement.

8.4. Liens: Customer shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the System or any interest therein. The preceding prohibition shall not apply to Liens arising from non-payment of personal property taxes assessed by Customer on the System. If Customer breaches its obligations under this Section 8.4, it shall immediately notify Supplier in writing, shall promptly cause such Lien to be discharged and released of record without cost to Supplier, and shall indemnify Supplier against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

8.5. Buyout Option/Early Termination: On and after the sixth (6th) anniversary of the In-Service Date, so long as Customer is not in material breach of this Agreement, Customer may purchase the System from Supplier on such anniversary and each annual anniversary thereafter for a purchase price equal to the greater of (i) the amount set forth at such time in the Buyout Schedule and (ii) the Fair Market Value of the System plus all applicable taxes for which the Supplier maybe liable resulting from the exercise by the Customer of its buyout right under this Section 8.5 (the "**Purchase Price**"). The "Fair Market Value" of the System shall be determined in accordance with the rules and regulations of the United States Internal Revenue Service. If Customer and Supplier cannot agree to a Fair Market Value within sixty (60) days after Customer issues written notice of its election to purchase the System, then the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. Customer shall provide a notification to Supplier of its intent to purchase at least one hundred and eighty (180) days prior to such anniversary and the purchase must close prior to such

anniversary. On or before the closing, Customer must pay to Supplier the Purchase Price. Upon the closing date of the purchase of the System: (i) this Agreement shall terminate, and the Customer assumes complete responsibility for the ownership, operation and maintenance of the System and liability for the performance of the System; (ii) Supplier shall have no further liabilities or obligations hereunder; and (iii) Customer shall indemnify Supplier from and against any and all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees relating to the System, the Easement Area, and/or the Facility arising on or after the closing date of the purchase of the System. Should Customer exercise its right to purchase the System under this Section 8.5, Customer shall assume any outstanding obligation of Supplier under an executed agreement for the sale of Environmental Attributes associated with the generation of a quantity of electricity by the System and shall enter into any assignment and assumption agreements necessary to assume such obligations.

Article 9 Term and Termination

9.1. Term: The term ("**Term**") of this Agreement shall commence on the Effective Date and terminate on expiration of the Delivery Term, unless earlier terminated as specifically provided for in this Agreement.

9.2. Delivery Term: The Delivery Term ("**Delivery Term**") under this Agreement shall mean the Initial Delivery Term of 20 years from the In-Service Date and, each successive twelve (12) month period thereafter (each an "**Extended Delivery Term**"); provided, however, that either Party may terminate the Delivery Term by giving written notice to the other Party at least ninety (90) days prior to the end of the Initial Delivery Term or any Extended Delivery Term, and thereafter the Agreement shall terminate at the end of such term.

9.3. Change in Law: If any Change in Law occurs that has a material adverse effect on the cost to Supplier of performing its obligations under this Agreement, Customer's eligibility to participate in Net Energy Billing or the System's eligibility to participate in Net Energy Billing, then the Parties shall, within thirty (30) days following receipt of notice by the affected party of such Change in Law, meet and negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then within ten (10) days

following the end of such thirty (30) day period, Supplier, at its sole discretion, may select one of the following options by providing written notice to Customer: i) terminate this Agreement effective as of the date of Customer's receipt of Supplier's written notice and subject to Supplier's System removal obligations pursuant to Section 11.2, ii) in the event of a Change in Law related to Customer's or System's ineligibility to participate in Net Energy Billing, amend the PPA such that Customer is obligated to continue purchasing the electric energy generated by the System, at an Electricity Rate not to exceed the Electricity Rate applicable as of the date of Supplier's written notice, pursuant to any new or modified law or regulation intended to be, or operating as, a replacement for Net Energy Billing and which permits Customer's and System's participation in the program, or iii) within thirty (30) days after Customer's receipt of Supplier's written notice, the Parties will negotiate in good faith and execute a land lease for the Easement Area terminating this Agreement and enabling the continued operation of the System for the then remaining duration of the Delivery Term, which land lease will feature a rental rate equal to the fair market rental value for such property at the time and terms and conditions customary for photovoltaic solar generation project lease agreements including, but not limited to, Supplier access rights, project finance accommodations, indemnity, insurance, System removal and Customer's obligation to reasonably cooperate, at Supplier's expense, to satisfy all Utility, regulatory and governmental requirements necessary for the sale of the electric power generated by the System to a third party other than Customer.

Article 10 Default and Remedies

10.1. Events of Default: The occurrence of any one or more of the following events with respect to a Party shall be an event of default ("**Event of Default**") under this Agreement: (1) failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a dispute, and such failure is not cured within twenty (20) days after delivery of written notice thereof; (2) any other material breach of this Agreement and such material breach is not cured within thirty (30) days after delivery of written notice thereof, provided, that if such breach is not reasonably capable of cure within thirty (30) days but such breach is reasonably capable of cure within one-hundred and eighty (180) days after delivery of notice of such breach, then the breaching Party shall be afforded one hundred and eighty (180) days to cure said breach, if the breaching Party commences to remedy the breach within such

one hundred and eighty (180) day period and thereafter diligently pursues such remedy until such breach is fully cured, but in no event later than such one hundred and eighty (180) day period; (3) if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby; or (4) a Party becomes Insolvent.

10.2. Supplier Remedies: If an Event of Default by Customer has occurred, and provided that Customer has not cured the relevant breach that gave rise to the Event of Default, Supplier may, following expiration of the cure periods set forth in Section 10.1, on issuing written notice to Customer:

(a) in addition to pursuing any other remedy now or hereafter available to Supplier at law or in equity, terminate this Agreement, surrender possession of the Easement Area to Customer and remove the System from the Easement Area in accordance with Section 11.2 and recover from Customer, (i) the amount set forth in the Buyout Schedule in effect for the year in which the termination occurs as liquidated damages for said breach, plus (ii) any reasonable costs and expenses incurred by Supplier in removing the System; provided, however, that if Customer breaches its obligation to provide the Easement, and, as a result, Supplier is unable to remove the System, in addition to amounts payable under clause (i) and (ii) of this Section 10.2(a), Supplier shall also be entitled to recover the Fair Market Value of the System, as determined in accordance with the rules and regulations of the Internal Revenue Service, to the extent such value exceeds amounts paid by Customer under clause (i) of this Section 10.2(a); or

(b) in addition to pursuing any other remedy now or hereafter available to Supplier at law or in equity, terminate this Agreement (other than any section required for maintenance of the Easement), retain possession of the Easement Area and keep the System installed within the Easement Area and make all electricity generated by the System available for delivery to, and purchase by, the Utility at the Point of Common Coupling pursuant to any then-applicable feed-in tariff until the twentieth (20th) anniversary of the beginning of the Initial Delivery Term.

10.3. Customer Remedies: Except for a non-payment related Event of Default pursuant to the System Annual Output Guarantee detailed in Section 7.6, if an Event of Default by Supplier has occurred,

and provided that Supplier has not cured the relevant breach that gave rise to the Event of Default, Customer may, following expiration of the cure periods set forth in Section 10.1, on issuing written notice to Supplier:

(a) Terminate Supplier's right to possession of the Easement Area by any lawful means, in which case this Agreement shall terminate and Supplier shall, within one hundred and twenty (120) days following written notice from Customer, surrender possession of the Easement Area to Customer and remove the System from the Easement Area in accordance with Section 11.2 and recover from Supplier the direct damages incurred by Customer as a result of such material breach; including the costs and expenses incurred by Customer (i) in retaking possession of the Easement Area, (ii) in removing the System in accordance with Section 11.2 if Supplier fails to do so, and (iii) in removing, transporting, and storing any of Supplier's property left at the Easement Area; and

(b) pursue any other remedy now or hereafter available to Customer at law or in equity.

10.4. Liquidated Damages Not a Penalty: The Parties acknowledge and agree that because of the unique nature of the System and the potential unavailability of a substitute customer for the System, it is difficult or impossible to determine with precision the amount of damages that would or might be incurred by Supplier as a result of Customer's failure to perform its obligations hereunder for the full Initial Delivery Term. It is understood and agreed by the Parties that (a) Supplier shall be damaged by failure of Customer to meet such obligations, (b) it would be impracticable or extremely difficult to fix the actual damages resulting therefrom, (c) any sums which would be payable under Section 10.2(a)(i) are in the nature of liquidated damages, and not a penalty, and are fair and reasonable, and (d) each payment represents a reasonable estimate of fair compensation for the losses that may reasonably be anticipated from such failure.

10.5. Remedies Not Exclusive: Termination of this Agreement, and exercise of the express remedies set forth herein, unless otherwise expressly stated herein, shall be without prejudice to any other rights or remedies which a Party may have against the other, and no termination of this Agreement or exercise of other express remedies set forth herein shall constitute a waiver, release or estoppel by either Party of any right, action or cause of action it may

have against the other. Except as set forth in Section 7.6 hereof, nothing herein shall limit either Party's right to collect damages upon the occurrence of a breach or a default by the other Party that does not become an Event of Default.

Article 11 Removal of System on Termination or Expiration

11.1. Removal of System After Issuance of Installation Notice. If Supplier terminates this Agreement pursuant to Section 3.1 or if Customer terminates this Agreement pursuant to Section 5.3 after the Installation Notice has been issued, then Supplier shall (a) remove the System, or any portion thereof, in accordance with Section 11.2 and (b) Supplier shall assign back to Customer any incentives or rebates the System has qualified to receive that were previously assigned to Supplier. Removal of the System or any portion thereof shall be completed at Supplier's expense.

11.2. Removal of System at Expiration or Termination: Upon the expiration or earlier termination of this Agreement according to its terms (provided Customer does not exercise its purchase option pursuant to Section 8.5), Supplier shall, at its expense and in a manner that minimizes the disruption of Customer's business to the extent commercially practicable, (i) remove the System and related equipment from the Easement Area, (ii) shall repair, in a commercially reasonable manner, any damage to the Easement Area caused by the System and such removal, and (iii) remove all trash and debris introduced to the Easement Area by Supplier, leaving the Easement Area in substantially the same condition existing prior to the Effective Date (reasonable wear and tear excepted) and in compliance with applicable laws and rules, including but not limited to 38 MRSA section 1306 and Chapter 401 of the Maine Department of Environmental Protection Maine Solid Waste Management Rules governing Landfill Siting, Design and Operation, and prudent industry practices. Customer shall use commercially reasonable efforts to provide sufficient space for the temporary storage, staging and laydown of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal.

Article 12 System Shading

12.1. Solar Access Easement: On Supplier's request, Customer shall secure a solar access

easement for the System (in form and substance acceptable to Supplier), to prevent other buildings, structures or flora located on real property owned or controlled by Customer from overshadowing or otherwise blocking access of the sunlight to the System and subsequent reduction in System electricity production. Supplier shall provide commercially reasonable assistance to Customer in securing such a solar access easement. The costs (including reasonable legal fees) for such a solar access easement shall be borne by Supplier.

12.2. Restrictions on Shading: Customer shall not cause, and shall use all reasonable efforts to prevent other parties from causing, any construction, landscaping or other activities to overshadow or shade the System in a manner that would reduce the amount of electricity the System generates per year by 0.5% or more.

12.3. Diminished Output Caused by Acts of Customer:

If in any Delivery Year the annual generation of the System is reduced by 0.5% or more as a result of: 1) Customer's breach of Section 12.1 or Section 12.2; or 2) acts of the Customer which cause damage to the System or otherwise cause the System to be not operational in whole or in part, then, at the end of such Delivery Year Supplier shall invoice Customer for, and Customer shall pay, an amount equal to the product of the amount of electricity generation (in kwh) lost due to such shading, overshadowing or damage and the then applicable Electricity Rate. Supplier shall also invoice Customer for, and Customer shall pay, an amount equal to the product of the amount of electricity generation (in kwh) lost due to such shading, overshadowing or damage and the average renewable energy credit price (over the most recent twelve (12) months before the overshadowing, shading or damage occurred) realized by Supplier for renewable energy credits generated by the System. Supplier shall base such losses on the average annual generation using the most recent twelve (12) month average generation before the overshadowing, shading or damage occurred, and reduced by 1.0% annually for normal degradation of the output of the System.

Article 13 Financing Covenants

13.1. Financing and Collateral Assignment: The Parties acknowledge that Supplier may obtain construction and long-term financing or other credit support from lenders or third parties ("**System Lenders**") in connection with the installation,

construction, ownership, operation and maintenance of the System (“**System Financing**”). Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the System Lenders prior to the In-Service Date in order to support the System Financing. Customer agrees that Supplier may assign, and consents to the assignment of, this Agreement and the System to the System Lenders as collateral. Following any such assignment, Supplier shall deliver to Customer written notice thereof and a counterpart of this Agreement executed by System Lenders or their designee. Following receipt of such written notice and executed counterpart, System Lender shall be a party to this Agreement for purposes of enforcing this Article 13.

13.2. System Lender Rights and Remedies:

13.2.1. Exercise of Rights. System Lender shall be entitled to exercise, in the place and stead of Supplier, any and all rights and remedies of Supplier under this Agreement in accordance with the terms of this Agreement. System Lender shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Supplier hereunder or cause to be cured any default of Supplier in the time and manner provided by the terms of this Agreement; provided, however, that nothing herein shall require System Lender to cure any default of Supplier or, until and unless System Lender has succeeded to Supplier’s interests under this Agreement, to perform or undertake any obligation of Supplier under this Agreement.

13.2.2. Right to Cure.

(a) Customer will not exercise any right to terminate or suspend this Agreement unless it shall have given System Lender prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and System Lender shall not have caused to be cured the condition giving rise to the right of termination or suspension within one hundred and eighty (180) days after such notice or (if longer) the periods provided for in this Agreement; provided that if applicable material breach reasonably cannot be cured by System Lender within such period and System Lender commences and continues to pursue cure of such material breach within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed additional one hundred and eighty (180) days. The Parties’ respective

obligations will otherwise remain in effect during any cure period.

(b) If System Lender or its Qualified Assignee (including any purchaser or transferee), pursuant to an exercise of remedies by System Lender, acquires title to or control of Supplier’s assets or the System and, within the time periods described in Section 13.2.2(a) above, cure all material breaches existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third Person then such Person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

13.3. Sale or Transfer of System. Upon the exercise of remedies under its security interest in the System or its rights under any agreements with Supplier, including any sale of the System by the System Lender, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Supplier to the System Lender (or any Qualified Assignee of the System Lender) in lieu thereof, the System Lender shall give notice to Customer of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement.

13.4. Bankruptcy. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Supplier under the United States Bankruptcy Code, at the request of System Lender made within one hundred and eighty (180) days of such termination or rejection, Customer shall enter into a new agreement with System Lender or its Qualified Assignee having substantially the same terms and conditions as this Agreement.

Article 14 Representations and Warranties

14.1. General Representations and Warranties: Each Party represents and warrants to the other the following:

(a) Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium

and other similar laws now or hereafter in effect relating to creditors' rights generally).

(b) Such Party has obtained all licenses, authorizations, consents and approvals required by any governmental authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

14.2. Representations and Warranties of Customer: Customer further represents and warrants to Supplier the following:

14.2.1. Easement. Customer either (i) has the full right, power and authority to make the grant of the Easement or (ii) has informed the Facility Owner of the need for the Easement to be granted, and Facility Owner has not objected to signing the Facility Owner Easement Agreement; to Customer's knowledge, the grant of the Easement does not violate any law, ordinance, rule or other governmental restriction applicable to Customer or the Facility; and the grant of Easement is not inconsistent with and shall not result in a breach or constitute a default under any agreement by which Customer is bound or that affect the Facility.

14.2.2. Other Agreements. Neither the execution and delivery of this Agreement by Customer, nor the performance by Customer of any of its obligations under this Agreement shall conflict with or result in a default under any of the terms or conditions of any agreement or obligation to which Customer is a party or by which Customer, or the Facility may be bound.

14.2.3. Accuracy of Information. To the Customer's best knowledge, all information provided by Customer to Supplier, as it pertains to the Facility's physical configuration, planned use of the Facility, estimated electricity requirements, and other facts, estimates and assumptions are accurate in all material respects.

Article 15 Indemnification

15.1. General: To the fullest extent permitted by law, each Party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective Affiliates of each thereof (collectively, the "**Indemnified Parties**"), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable

attorneys' fees (collectively, "**Liabilities**") resulting from a material inaccuracy of any representation or warranty set forth in Article 14 and from injury to or death of persons, and damage to, loss of or loss of use of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing in this Section 15.1 shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 15.1, however, shall not apply to liability arising from any form of Hazardous Substances or other environmental contamination, such matters being addressed exclusively by Section 15.3.

15.2. Notice and Participation in Third Party Claims: The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 15.2 unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 15.2 for any Claim for which such notice is not provided, to the extent that the failure to give such notice prejudices the Indemnifying Party.

15.3. Environmental Indemnification: Supplier shall indemnify, defend and hold harmless all of Customer's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Easement Area of any Hazardous Substance to the extent deposited,

spilled, released or otherwise caused by Supplier or any of its contractors or agents. Customer shall indemnify, defend and hold harmless all of Supplier's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Easement Area of any Hazardous Substance, except to the extent deposited, spilled, released or otherwise caused by Supplier or any of its contractors or agents. Each Party shall promptly notify the other Party if it becomes aware of any deposit, spill or release of any Hazardous Substance on or about the Easement Area or the Premises generally.

15.4 Tort Claims: The Parties acknowledge that the Customer is a political subdivision of the State of Maine to which the Maine Tort Claims Act applies. Accordingly, nothing in this Agreement (including provisions to indemnify, defend, and/or hold harmless) shall operate in any practical effect to waive any defense, immunity, limitation of liability, or other protection available to the Customer pursuant to applicable law, including the Maine Tort Claims Act. Furthermore, Supplier agrees that nothing in this Agreement (including provisions to indemnify, defend, and/or hold harmless) is intended to create or shall have the effect of creating a greater liability on the Customer's part to Supplier for third party claims than the Customer has or would have for claims brought by such third party directly against the Customer in accordance with the provisions of the Maine Tort Claims Act.

15.5. Survival of Obligation: Except as provided in Section 8.5, the provisions of this Article 15 shall continue in full force and effect notwithstanding the expiration or termination of this Agreement.

Article 16 Force Majeure

16.1. Effect of Force Majeure: Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the Force Majeure event (but only to the extent so affected), provided that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice, fully describing the particulars of the occurrence; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the event of Force Majeure; and (iii) the

Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible.

16.2. Payment Obligations Not Excused: Notwithstanding anything in this Article 16 to the contrary, the obligation to make any payments due under this Agreement shall not be excused by an event of Force Majeure.

16.3. Termination for Force Majeure Event: If a Force Majeure event shall have occurred that has affected Supplier's performance of its obligations hereunder and that has continued for a period of three hundred and sixty five (365) consecutive days, then Customer shall be entitled to terminate this Agreement upon sixty (60) days' prior written notice to Supplier. If at the end of such sixty (60) day period such Force Majeure event shall still continue, this Agreement shall automatically terminate. Upon such termination for a Force Majeure event, neither Party shall have any liability to the other, subject to Section 17.10 (Survival). By mutual agreement of the Parties, any System damaged or destroyed by a Force Majeure event may be replaced by Supplier within the time frames set forth above and subsequent to replacement and upon commencement of operation of the replacement System all terms and conditions of this Agreement will remain in effect, including the remaining Term of this Agreement.

Article 17 General Provisions and Terms

17.1. Ownership of System: Throughout the Term, Supplier (or its permitted assigns) shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes, and the System shall remain the personal property of Supplier (or its permitted assigns) and shall not become an attachment to or be deemed a part of, or fixture to, the Facility or the Premises; provided, however, that the foregoing shall not limit Supplier's right to sell, transfer or finance the System or Environmental Attributes. Customer is not purchasing, nor is receiving any right to, title to or benefit of, any Environmental Attributes or any other attributes associated with ownership or operation of the System other than the electricity delivered hereunder, all of which are hereby retained by Supplier. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Neither Customer nor any other Person claiming by or through Customer shall have or obtain any right, title or interest in the System. Customer covenants that it will use reasonable commercial efforts to place all parties having an

interest in or Lien upon the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Customer shall provide Supplier a disclaimer or release obtained from such lienholder. If Customer is the fee owner of the Premises, Customer consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction of the Premises. Customer shall cooperate with Supplier to execute and cause to be filed such Uniform Commercial Code financing statements and other similar filings as Supplier may reasonably request in order to confirm and protect Supplier's ownership of the System.

17.2. Use of Subcontractors: Supplier shall be permitted to use duly licensed contractors and subcontractors to perform its obligations under this Agreement; provided, however, that the use thereof shall not relieve Supplier of its obligations hereunder. Supplier shall be responsible for making all payments due to such contractors and subcontractors.

17.3. Limitations of Liability: Notwithstanding anything else to the contrary in this Agreement, neither Supplier nor its employees, its subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or nonperformance hereunder. The provisions of this Section 17.3 shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise. Any action against either Party must be brought within two (2) years after the cause of action accrues.

17.4. Assignment: This Agreement may not be assigned in whole or in part without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed. Notwithstanding the foregoing, Supplier may, without the prior written consent of Customer, (i) assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement to any System Lender and (ii) assign this Agreement to an Affiliate of Supplier. Customer's consent to any other assignment shall not be withheld if Customer has been provided with reasonable proof that the proposed assignee (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services comparable to those contemplated by this Agreement and (y) has the financial capability

to maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

17.5. Insurance: At all times during the Term starting on the date of the issuance of the Installation Notice, each Party shall maintain the following insurance coverages in full force and effect throughout the Term either through insurance policies or acceptable self-insured retentions: (i) worker's compensation insurance as may be from time to time required under applicable federal and state law;(ii) commercial general liability insurance in the amount of at least \$1,000,000 per occurrence and at least \$2,000,000 annual aggregate and (iii) employment practices liability insurance coverage of at least \$1,000,000. Notwithstanding the foregoing, Customer shall be required to maintain insurance in the amount of at least \$400,000 per occurrence combined single limit of liability for causes of action seeking tort damages pursuant to the provisions of the Maine Tort Claims Act. In addition, starting on the date of commencement of construction of the System Supplier shall maintain property insurance sufficient to repair or replace the System from vandalism, damage, weather or other causes as typically included in property insurance policies. Each Party shall furnish current certificates evidencing that the insurance required under this Section 17.5 is being maintained no later than five days after the date of commencement of construction of the System. Each Party's insurance policies provided hereunder shall (i) comply with the State of Maine cancellation and nonrenewal provisions or contain a provision whereby the insurer agrees to give the other Party sixty (60) days' written notice before the insurance is cancelled or materially altered, (ii) be written on an occurrence basis and shall include the other Party as an additional insured as its interest may appear and (iii) be maintained with companies either rated no less than A-as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated) or having a parent company's debt to policyholder surplus ratio of 1:1 or comply with the State of Maine rules regarding reinsurance and investments for self-insured pools with reinsurers rated no less than A.

17.6. Dispute Resolution: The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a "Dispute") within 30 days after the date that a Party gives written notice of

such Dispute to the other Party. If, after such negotiation, the Dispute remains unresolved, either Party may serve written notice on the other Party of a request for mediation. The mediation shall be conducted in Maine by a mediator mutually agreeable to the Parties, shall not exceed one full day or two half days in length, and shall be completed within ninety (90) days from the date of receipt of notice of a request for mediation. The Parties shall share the cost of the mediator, but each shall bear its own costs related to mediation. If the Parties are unable to resolve the dispute through mediation, then each retains all rights and legal and equitable remedies provided by law, including the right to initiate and pursue arbitration or litigation.

17.8. No Implied Warranty: THE WARRANTIES OF SUPPLIER SET FORTH IN THIS AGREEMENT ARE SUPPLIER'S SOLE AND EXCLUSIVE WARRANTIES AND ARE MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND SUPPLIER MAKES NO OTHER WARRANTIES TO CUSTOMER, EITHER EXPRESS OR IMPLIED, FOR PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CUSTOM, USAGE OR OTHERWISE. THERE ARE NO OTHER WARRANTIES, AGREEMENTS, ORAL OR WRITTEN, OR UNDERSTANDINGS THAT EXTEND BEYOND THOSE SET FORTH HEREIN AND NO OTHER WARRANTY, ORAL OR WRITTEN, WHICH MIGHT HAVE BEEN GIVEN BY AN EMPLOYEE, AGENT OR REPRESENTATIVE OF SUPPLIER IS AUTHORIZED BY SUPPLIER. The remedies set forth in this Agreement shall be Customer's sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise.

17.9. Notices: Notices shall be given by (i) certified mail, return receipt requested, postage paid, or (ii) delivery services such as Federal Express or similar service, or (ii) by facsimile. All notices not delivered by mail shall be deemed received upon actual receipt to the Person to whom the notice is directed. Notices delivered by mail shall be deemed to be received fourteen (14) days after mailing (postage prepaid). Notices shall be addressed as set forth on the Cover Page of this Agreement.

17.10. Survival: All provisions of this Agreement that are expressly or by implication to come into or continue in force and effect after the expiration or termination of this Agreement shall remain in effect

and be enforceable following such expiration or termination.

17.11. Right of Waiver: Each Party, in its sole discretion, shall have the right, but shall have no obligation, to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time, provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified.

17.12. Waiver of Breach: A delay or failure to enforce at any time any of the provisions of this Agreement, or to require at any time performance by the other Party of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions or to affect either the validity of this Agreement or any part hereof or the right of either Party thereafter to enforce each and every provision in accordance with the terms of this Agreement.

17.13. Further Assurances: Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement.

17.14. Comparative Negligence: It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability. The Parties also agree and recognize that nothing in this Section 17.14 shall be construed to conflict with or supersede Customer's duties, obligations or protections under the Maine Tort Claims Act.

17.15. Taxes: Customer shall be responsible for and shall pay, either directly or as requested to Supplier depending on how tax is collected by the relevant governmental authority, all Taxes imposed upon the sale of electricity from Supplier to Customer under this Agreement. Customer shall also be responsible for any and all charges that are imposed, or collected,

by the Utility on their customers for electricity, regulatory fees and surcharges, Taxes, and other charges related to Customer receiving electricity from the Utility. Notwithstanding anything herein to the contrary, Supplier shall be responsible for all income, gross receipts, ad valorem, personal property or real property or other similar taxes and any and all franchise fees or similar fees assessed against it due to its ownership of the System.

17.16. Incentives: Supplier has the right to receive directly, or to have such amounts paid over to Supplier by Customer to the extent received by Customer, any, rebates, subsidies, payments or other incentives that relate to on-site generation of electricity, the use of technology incorporated into the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the System, the Maine Public Utility Commission, the U.S. Departments of Energy and/or Treasury, or any other governmental authority. Customer shall use reasonable efforts to cooperate with Supplier in obtaining such incentives, including by using any electricity generated by the System in a manner necessary to entitle Supplier or Customer to qualify for any such available incentives and Customer shall comply with any requirements imposed on Customer under the applicable incentive program, but Customer shall not be obligated to incur any out-of-pocket costs or expenses in connection therewith unless reimbursed by Supplier. To be clear, the Parties recognize and agree that an integral incentive to Customer in entering this Agreement is the ability of Customer to participate in Maine's Net Energy Billing arrangements pursuant to 35-A M.R.S.A sections 3209(A) and (B) and Chapter 313 of the Rules of the Maine Public Utilities Commission, and nothing in this Section 17.16 is intended to conflict with Customer's ability to participate in Net Energy Billing.

17.17. Non-Dedication of Facilities: Nothing herein shall be construed as the dedication by Supplier of its facilities or equipment to the public or any part thereof. Customer shall not assert in any proceeding before a court or regulatory body that the Supplier is a public utility by virtue of Supplier's performance under this Agreement. If Supplier is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Supplier does not become subject to any such regulation. If the Parties

are unable to agree upon such restructuring, Supplier shall have the right to terminate this Agreement.

17.18. Confidentiality: If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the design, operation and maintenance of the System or of Customer's business ("**Confidential Information**") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect to the extent allowed by law, including without limitation the Maine Freedom of Access Act, Title 1 M.R.S. Chapter 13, the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement. Notwithstanding the above, a Party may provide such Confidential Information to its, officers, directors, members, managers, employees, agents, contractors and consultants (collectively, "**Representatives**"), and Affiliates, lenders, and potential assignees of this Agreement (provided and on condition that such potential assignees be bound by a written agreement restricting use and disclosure of Confidential Information), in each case whose access is reasonably necessary to the authorization, negotiation and performance of this Agreement. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Article, except as set forth in Section 17.19. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Section 17.18 by the receiving Party or its Representatives or other Person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief,

including injunctive relief and specific performance, in the event of a breach of the provision of this Section 17.18. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 17.18, but shall be in addition to all other remedies available at law or in equity.

17.19. Permitted Disclosures: Notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through the receiving Party, (ii) is required to be disclosed to a governmental authority under applicable law or pursuant to a validly issued subpoena (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement), (iii) is independently developed by the receiving Party or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality or (v) in the case Customer is required to be disclosed pursuant to applicable law, including without limitation the Maine Freedom of Access Act (1 M.R.S.A. §§400 et seq.). If disclosure of information is required pursuant to this Section, the disclosing Party shall to the extent permitted by applicable laws, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure.

17.20. Goodwill and Publicity: Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or other public statements by the other Party that refer to, or that describe any aspect of, this Agreement; provided that no such publicity releases or other public statements (except for filings or other statements or releases as may be required by applicable law) shall be made by either Party without the prior written consent of the other Party. To avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use, Customer, if engaged in commerce and/or trade, shall submit to Supplier for approval any press releases regarding Customer's use of solar or renewable energy and shall not submit for publication any such releases without the written approval of Supplier. Approval shall not be unreasonably withheld, and Supplier's review and approval shall be made in a timely manner to permit Customer's timely

publication. Customer and Supplier may by mutual written agreement set forth specific statements that may be used by Customer in any press releases that address Customer's use of solar or renewable energy. Requirements for pre-approval of statements, releases or filings contemplated under this Section 17.20 shall not apply if the Parties are in a dispute, controversy or claim arising out of or relating to this Agreement under Section 17.6.

17.21. Nonappropriation of Funds and Customer's Covenant

(a) Nonappropriation of Funds. The payment obligations of Customer under this Agreement shall constitute a current expense of Customer. Any non-substitution, notification, time limitation, or other provision in this Agreement restricting or limiting Customer's right to terminate the Agreement upon a Nonappropriation Event (as defined below) shall be enforceable only to the extent that such restriction or limitation is permitted by applicable law and would not cause Customer's obligation to make payments under this Agreement to be deemed or construed as a debt of Customer in contravention of any constitutional, statutory, Charter, or other legal requirement governing the creation of indebtedness by Customer. Nothing in this Agreement shall be deemed a pledge of general tax revenues, funds or monies of Customer. Notwithstanding anything contained in this Agreement to the contrary, if a Nonappropriation Event occurs, this Agreement shall automatically terminate on the last day of the fiscal period for which appropriations were received, without penalty or expense to Customer of any kind whatsoever, except as to the payments or portions thereof for which funds have been appropriated and budgeted. Customer hereby agrees to reasonably cooperate with Supplier to effectuate and evidence the termination of this Agreement and any other contract or agreement contemplated herein. All obligations of Customer and Supplier accruing prior to such automatic termination date will survive any such termination. "Nonappropriation Event" means the failure of the legislative body of the Customer to appropriate funds for the payment of Customer's obligations under the Agreement.

(b) Customer's Additional Covenant. Customer hereby covenants that Customer will do all things lawfully within its power to obtain and maintain funds from which Customer's payment obligations under this Agreement may be made, including making provision for such payment obligations in each proposed annual budget of the Customer submitted for approval in accordance with applicable

law, Charter, and procedures. [NTD: This section remains subject to financier review]

Schedule E
Customer-Specific Terms and Conditions

[NTD: To be provided by Town.]

Schedule F
System Description

Component	Description
Photovoltaic Module	Seraphim SEG-445 or equivalent
Inverter	Sungrow 60kW or equivalent
Mounting Hardware	APA Ballasted or equivalent
Monitoring System	Also Energy or Tagent AMP™