

DEVELOPMENT OF A SOLAR ENERGY
PROJECT AT MUNICIPALLY OWNED
WELDFIELD IN AUBURN,
MASSACHUSETTS

Request for Proposal

July 10, 2023

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PART 1 -GENERAL PROPOSAL INFORMATION

1.1 PURPOSE

The purpose of this Request for Proposals (“RFP”) is to seek proposals from qualified and experienced renewable energy developers (“Developers”) interested in implementing a renewable energy system which will (a) provide lease revenue to the Auburn Water District (sometimes referred to as the “District”). The Developer selected by the District (the “Selected Developer”) will lease land owned by the District, to develop, own operate and maintain a solar energy project.

The District intends to lease District-owned property for the installation of solar collectors, inverters, and cabling for a solar array at the District’s municipal wellfield sites on one or two multi-parcel properties located within the boundaries of Auburn, MA, shown in Attachments A and B. Proposals for PV project development will be accepted for one or the other or both properties. The lease term will be for a minimum term of twenty (20) years. The total term of the lease, including any renewal periods, shall not exceed thirty (30) years.

System buy-out (optional) - The bidder may offer the District buy-out options with system ownership transfer to the District at some time or times during the term of the contract period.

The Selected Developer will be responsible for the interconnection study, permitting, interconnection costs and all costs associated with obtaining Permission to Operate the PV system from the local utility, National Grid. The Selected Developer will construct, own, operate and maintain the solar energy project. The Selected Developer will retain all environmental credits, tax credits, and other credits or grants derived from the solar energy project.

The District reserves the right to withdraw this RFP; to reject any and all proposals; waive minor informalities; and to accept any proposal deemed to be in the best interest of the District.

1.2 CONTACT PERSON

All communication regarding this RFP must be made by email and directed to:

Gregory Woods, Superintendent
Auburn Water District
PO Box 187, 75 Church Street, Auburn MA 01501
Email: gwoods@auburnwater.com

1.3 SCHEDULE

Proposal with all addenda is due on **August 18, 2023 by 11:00 AM.**

Submit proposals by email to gwoods@auburnwater.com. Include “Auburn Water Solar Proposal” in the subject line. The District will not consider responses received after the deadline for submission of responses.

1.4 PRE-PROPOSAL CONFERENCE AND SITE TOUR

There will be a pre-proposal site tour for both sites to be held on **July 25, 2023 at 10:00 AM.** Meet at the District’s office at 75 Church Street, Auburn, MA.

1.5 ADDENDA AND EXPLANATIONS

Questions may be submitted to the District by emailing gwoods@auburnwater.com no later than **August 8, 2023 at 11:00 AM**. Include **“Solar RFP Question”** in the subject line. All questions and answers will be posted to the District website at: <https://www.auburnwater.com/forms-and-applications/> .

1.6 SUBMITTAL REQUIREMENTS

Proposals are due as defined in Section 1.3 Schedule. Proposals received after the due date and time will not be considered.

Proposals shall consist of the following:

- a. Developer qualifications and Technical Proposal.
- b. Land Agreement of similar form and content as the draft lease included in Exhibit 1, including proposed monthly rent payments and other material business terms.
- c. System buy-out agreement (optional): provisions in the proposed lease which offer the District the opportunity to purchase the PV system at some time or times may be proposed.

1.7 DISCLOSURE OF CONFIDENTIAL OR PROPRIETARY INFORMATION

Developers must specifically identify those portions of their proposals, if any, which they believe contain confidential or proprietary information or trade secrets. They must provide justification why such materials should not be disclosed under a public records request, including the proper citations to the law supporting the exclusion from the mandatory disclosure under the Public Records Law of Massachusetts General Laws, (MGL) Chapter 66.

1.8 INCURRED EXPENSES

The District is not responsible for any expenses that Developers may incur in preparing and submitting proposals. All materials and documents submitted in response to this solicitation become the property of the District and will not be returned.

1.9 CONDITIONS

Each Developer shall become fully acquainted with conditions relating to the scope and performance of the work required under this RFP.

The Developer shall decide as to conditions and shall assume all development risk and responsibility and shall complete the work in and under conditions they may encounter or create, without extra cost to the District.

The District reserves the right to issue addenda to this RFP. If it becomes necessary to revise any part of this RFP, addenda will be posted to the District website at: <https://www.auburnwater.com/forms-and-applications/> and an email with a link to the addenda will be sent to all potential Developers who have provided their email address to the District as an expression of interest. The addenda shall be deemed a part of this RFP.

The District is not liable for any costs incurred by Developer prior to the issuance of a lease or if no action is taken on this RFP. The District may, in its sole discretion, determine that no lease award shall be made for one or both of the potential sites.

The District is not liable for any costs incurred by the Developer in development, ownership, or maintenance

the PV system.

Developer's response to this RFP may be withdrawn or modified only by email communication delivered to the gwoods@auburnwater.com email address. Any such communication must be received before the deadline for proposal submission.

By submission of a proposal, the Developer agrees, if its proposal is accepted, to enter a lease with the District that incorporates all of the requirements of the RFP. A draft lease is provided in Exhibit 1. Each Developer should review these documents before submittal of their proposal. The Developer further accepts all the terms and conditions of this RFP.

The Selected Developer who enters into a lease with the District will be responsible for obtaining at its own expense, all appropriate Federal, State, and local permits, licenses, and approvals for the installation of the required equipment. If the Selected Developer is unable to obtain all necessary permits, licenses, and approvals, for reasons beyond the Selected Developer's control, the lease will be terminated, and no further obligation imposed upon either party.

The Selected Developer will be required to provide a financial guarantee payable to the District in the event that the Selected Developer fails to perform their obligation to develop and obtain permission to operate the solar generating facility in accordance with the timelines and performance specifications agreed upon in the lease. The financial guarantee shall be in the amount of \$250,000 or the cost to return the sites to original conditions whichever is greater.

In addition to and without limiting the foregoing, each Developer acknowledges and agrees that the District's ability to enter the lease with the Selected Developer may be contingent upon the District obtaining Article 97 (See Attachment E for more information) legislation authorizing such lease. If the District determines, in its sole and absolute discretion, that such Article 97 legislation is necessary, the Selected Developer shall, at the Selected Developer's sole cost and expense, (a) draft and revise the appropriate Article 97 legislation, incorporating any and all revisions and input that the District may provide, (b) coordinate with the appropriate governmental authorities, to the fullest extent possible, in advancing the Article 97 legislation, and keep the District apprised of such progress, and (c) otherwise comply with all reasonable requests and directives that the District shall make concerning the passage of the Article 97 legislation.

1.10 COMPETENCY OF DEVELOPER

The opening of the sealed envelopes shall not be construed as an acceptance of the Developer's qualifications. The District reserves the right to determine the competency of a Developer from its knowledge of the Developer's qualifications or from other sources.

1.11 DISQUALIFICATION OF DEVELOPER

Although not intended to be an exhaustive list of causes for disqualification, any one or more of the following causes, among others, may be considered sufficient for the disqualification of a Developer and the rejection of a bid:

- a) Evidence of collusion among Developers.
- b) Questions of lack of competency as revealed by either experience or financial statements; or

c) Default on a previous contract for failure to perform.

1.12 LICENSES

If required by law for the operation of the business or work related to this RFP, the Selected Developer and all sub-contractors must possess all valid certifications and/or licenses as required by federal, state, and local laws.

1.13 PROCUREMENT REGULATIONS, EVALUATION, AND AWARD

This RFP and any contract and/or lease entered as a result thereof are subject to MGL Chapter 30B. Prevailing wage rates are not applicable.

Each response to this RFP will be evaluated in accordance with MGL Chapter 30B. Proposals will not be opened in public and will not be made public until an award has been made. Developers meeting the minimum qualifications criteria outlined in Section 5.1 will advance to the proposal evaluation process.

The District may conduct such investigations as the District considers necessary to assist in the evaluation of any proposal and to establish the responsibility, qualifications, and financial ability of the Developer. The District shall be the sole judge of the Developer's qualifications and whether the proposal is in the best interests of the District.

The District will select the Developer with the most advantageous responsive and responsible proposal, taking into consideration the Developer's experience, references, Technical Proposal, and Financial Proposal.

1.14 NON-DISCRIMINATION

The Developer shall not discriminate against any person because of race, gender, age, disability, ancestry, religion, national origin, sexual preference, veteran status, or political affiliation or belief.

PART 2 -SCOPE OF WORK

2.1 DESCRIPTION OF THE PROJECT

The District is interested in promoting the beneficial use of water supply land for renewable energy production. The District owns about 92 acres in four parcels as Shown in Attachment A. Four potential solar array locations, one on the west side of the railroad tracks (about 7 +/- acres) and three on the East side of the tracks (about 14 +/- acres) are shown on Attachment B. These potential solar array locations are just suggestions and can be modified. The two parcels are located in the vicinity of 9A Pine Valley Drive in Auburn, MA.

The sites include municipal water supply wells and /or vacant land in the vicinity of the wellfield. The land may include Zone 1 and Zone 2 Wellhead Protection Area and may require coordination with the Massachusetts Department of Environmental Protection (MassDEP). Satellite images and GIS Site Plans for both properties, including the boundaries of land available for the PV systems installations, are again shown in Attachment A and Attachment B.

The Selected Developer will be given 14 months to develop and construct the solar project and obtain Permission to Operate (PTO) from National Grid. This includes the design, permitting and financing of the solar project. The District's goal is for the Selected Developer to receive Permission to Operate (PTO) and the PV systems to be generating power on or before January 1, 2025 (PTO Date). An extension of the PTO deadline may be granted, by the District, if the failure to meet the PTO deadline is due to utility delays or forces beyond the control of the Selected Developer. Weather is not an acceptable cause for delay. After the development phase is complete and before construction begins, the District and the Selected Developer will execute a lease similar to the draft Lease Agreement provided in Exhibit 1. As part of the lease, the Selected Developer will maintain all operations and maintenance requirements and be responsible for all operation of the solar field.

The project areas contain wellhead protection zones used for public drinking water supplies. Care must be taken when working with equipment storage, vehicle parking, and while using any oils or hazardous materials to avoid any spills or releases to the environment. To the greatest extent possible, construction materials shall be free from oils or hazardous materials. Any oils used should be clearly marked and should be contained with spill protection. Any spills during construction shall be reported immediately to the District, Town and to the MassDEP.

2.2 PERMITS, APPROVALS AND SITE-SPECIFIC REQUIREMENTS

The Selected Developer shall be responsible for obtaining all relevant approvals and permits associated with the Solar Energy Project. These may include, but are not limited to zoning permits, construction permits, access agreements, storm water management permits, sediment and erosion control permits, electrical permits, and interconnection agreements with the local utility. All permits shall be submitted under the direction of a licensed professional engineer. The costs for these approvals, agreements and permits shall be borne by the Selected Developer. The District will provide existing site-specific information, guidance, and support to the extent practical the Selected Developer shall be responsible for obtaining approval from the MassDEP and local authority for the installation of the solar systems within Zone 1 and Zone 2 Wellhead Protection zones as required in 310 CMR 22.21(1), 310 CMR 22.21 (3) (b) and 310 CMR 22.24. The governing policy, Bureau of Resource Protection "Wind & Solar Energy Projects Proposed in Zone 1" and guideline BRP #2011-1 are included in Attachment E. The parcel east of the railroad tracks does not have access from Elm Street or an existing railroad crossing on the District property. The Selected Developer shall be responsible for securing an access agreement with either a property abutter or the railroad owner.

To assist the Selected Developer in development and permitting, the following documents have been included in the RFP or a link to the document has been provided:

- Attachment A – Contiguous District Properties off Pine Valley Drive
- Attachment B – Satellite Image of Property Boundaries, Zone 1s and Potential Array Locations
- Attachment C – Link to “Town of Auburn Zoning By-Laws dated October 26, 2021”
- Attachment D – Link to “Town of Auburn General By-Laws dated May 2022”, and
- Attachment E – Bureau of Resource Protection Policy “Wind and Solar Energy in Zone 1” and Bureau of Resource Protection “Drinking Water Program Guideline”.

The Selected Developer will be required to prepare a system maintenance plan and control plans for sediment and erosion control, storm water runoff, vegetation control and security.

The District requires the Selected Developer to handle all non-hazardous and hazardous materials and install the solar energy project on the wellfield properties in a manner that protects the District’s property interests and in accordance with all applicable local, state, and federal requirements. Maps of the Wellhead Zones for both parcels of land, including wetlands, can be found under the “Layers” tab on the Town of Auburn GIS at: <https://www.mapsonline.net/auburnma/>.

2.3 LEASE TERM

The Selected Developer shall enter into a Lease Agreement for an initial term of not less than twenty (20) years and not more than a total of thirty (30) years (including any option periods).

2.4 CODES AND STANDARDS

The Selected Developer shall meet all applicable industry standards and requirements for all equipment utilized.

2.5 FINANCIAL ASSURANCE

Construction

Before any site work or construction begins, the Selected Developer will be required to post financial assurance payable to the District in the event the Selected Developer is unable to procure and install a fully operational solar power generating facility in accordance with the timelines and performance specifications agreed upon in the lease. The financial assurance shall be the estimated amount to restore the property or \$250,000 whichever is greater.

Decommissioning

The Selected Developer will be required to post financial assurance payable to the District to cover the costs to decommission the solar generating system at the end of the lease agreement. The estimated financial assurance shall include but is not limited to removal of solar panels, racking system, all electrical connections and equipment, and the legal proper disposal of all equipment and waste. The financial assurance estimate shall also include all costs for returning the property to pre-project conditions and shall include all professional costs, labor costs, trucking costs, hauling and disposal costs, landscaping costs, and any other cost not mentioned but which is expected to be incurred. The financial assurance shall be the estimated amount to restore the property or \$250,000 whichever is greater.

2.6 INDEMNIFICATION

The Selected Developer shall be required to indemnify the District officers, employees, and contractors against any claim for performance of the Selected Developer's contractors' services contemplated by this RFP. The Selected Developer shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the District, its officers and employees from and against any and all claims, demands, suits, actions, recoveries, judgments, costs and expenses in connection therewith, on account of the loss of life, property or injury or damage to the person, body or real property or tangible personal property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or materials supplied under this RFP and the resulting lease.

PART 3 -INSURANCE REQUIREMENTS

3.1 INSURANCE REQUIREMENTS – CONSTRUCTION PHASE

The Selected Developer and subcontractors shall, at their own expense, procure and maintain required insurance until all their obligations have been discharged, including until any warranty periods under the lease are satisfied and any insurance claims for injury to persons or damage to property which may arise from or in connection with the performance of the work by the Selected Developer, its agents, representatives, employees, or subcontractors are resolved.

The Selected Developer shall provide evidence of such insurance to the District. The policies or certificates thereof shall provide that thirty days prior to cancellation or material change in the policy, notices of same shall be given to the District by registered mail, return receipt requested, for all of the following stated insurance policies.

If at any time any of the policies required herein shall be or become unsatisfactory to the District as to form or substance, or if a company issuing any such policy shall become unsatisfactory to the District, the Selected Developer shall upon notice to that effect from the District promptly obtain a new policy, submit the same to the District for approval and submit a certificate thereof. Upon failure of the Selected Developer to furnish, deliver and maintain such insurance, the lease, at the election of the District, may be declared suspended, discontinued, or terminated. Failure of the Selected Developer to provide and maintain any of the required insurance shall not relieve the Selected Developer from any liability under the lease, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations on the Selected Developer concerning indemnification. The District may waive the requirement of coverage type or amount if not reasonably available and if the District deems it to be in the best interest to do so.

3.1.1 MINIMUM SCOPE AND LIMITS OF INSURANCE

The Selected Developer shall provide coverage with limits of liability not less than those stated below:

A. Commercial General Liability – Occurrence Form

- Policy shall include bodily injury, property damage, and broad form contractual liability coverage.
- General Aggregate: \$2,000,000
- Products – Completed Operations Aggregate: \$1,000,000
- Personal and Advertising Injury: \$1,000,000
- Each Occurrence: \$1,000,000

B. Workers' Compensation and Employer's Liability

- Workers' Compensation Insurance as required by the state of Massachusetts.
- Employers' Liability Insurance covering all of Selected Developer's employees working on or off the work site and acting within the scope of their employment as required by the state of Massachusetts.

C. Excess Umbrella Liability – Annual Aggregate: \$5,000,000.

D. Automobile Liability Insurance – Combined single limit of \$1,000,000.

E. Professional Liability Insurance – Covering errors and omissions, \$1,000,000 each occurrence and \$2,000,000 aggregate limit.

F. Builders' Risk Insurance or Installation Floater

- In an amount equal to the initial amount for the construction of the solar energy project, the District, Town of Auburn and the Selected Developer and subcontractors shall be "Insureds" on the policy. Coverage shall be written on an all risk, replacement cost basis and shall include coverage for soft costs.
- Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy.
- Policy must provide coverage from the time any covered property becomes then responsibility of the Selected Developer, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation site, or awaiting installation, whether on or off site.

G. Excess Liability Insurance, Umbrella Form - \$2,000,000 each occurrence and \$5,000,000 aggregate.

3.2 INSURANCE REQUIREMENTS – OPERATION PHASE

The Selected Developer and subcontractors shall procure and maintain insurance coverage until all their obligations have been discharged, including until any warranty periods under the lease are satisfied and any insurance claims for injury to persons or damage to property which may arise from or in connection with the performance of the work by the Selected Developer, its agents, representatives, employees, or subcontractors are discharged.

The insurance requirements herein are minimum requirements for the lease and in no way limit the indemnity covenants contained in this RFP.

The District in no way warrants that the minimum limits contained herein are sufficient to protect the Selected Developer from liabilities that might arise out of the performance of the work under the lease by the Selected Developer, its agents, representatives, employees, or subcontractors. The Selected Developer is free to purchase such additional insurance as may be determined necessary.

3.2.1 ADDITIONAL INSURANCE FOR OPERATION PHASE

All the insurance listed above in Section 3.1 shall remain in effect and full force for the term of the lease. In addition, the Selected Developer shall procure and maintain the following insurance:

A. Property Insurance

Property insurance shall be written on an all risk, replacement cost coverage.

Policy shall be in force at the time of substantial completion of the solar energy project's construction and continue until the termination of the lease.

PART 4 -LEASE INFORMATION AND PROPOSED LEASE PROVISIONS

4.1 PARTIES TO THE LEASE

The lease and all exhibits thereto to be entered into as a result of this RFP shall be by and between the Selected Developer and the District. The lease shall be of a form and substance similar to the draft Lease Agreement found in Exhibit 1.

4.2 LEASE TERM

The lease initial term will be for a minimum of 20 years.

PART 5 -SUBMITTAL REQUIREMENTS: DEVELOPER QUALIFICATIONS

5.1 MINIMUM DEVELOPER QUALIFICATIONS

Bidders shall demonstrate the following minimum qualifications with supporting documentation in their proposal. Developer Qualifications shall be submitted by email with the Developer's Technical Proposal.

5.1.1 CORPORATE HISTORY AND STRUCTURE

Each Developer shall identify itself by corporate name or partnership name and/or affiliate name, if applicable, and list all officers, directors, primary stockholders, and partners of the Developer. Developers shall describe their corporate structure and the location or jurisdiction in which the Developer is registered.

5.1.2 PROJECT DEVELOPMENT EXPERIENCE

Each Developer shall submit documentation showing that the Developer meets the following minimum qualification criteria:

1. The Developer for development of ground mounted Solar PV systems in Massachusetts must have a minimum of two (2) years of experience designing, installing, and operating PV systems with system sizes a minimum of 300kW per site. Operations experience shall include long term monitoring and reporting experience particularly in the Northeast and specifically in Massachusetts. Developers shall demonstrate by example its experience working in facilities similar to the facilities included in this RFP.
2. Provide a summary of at least five (5) examples of large ground mount solar PV installations, and two (2) installations must be in Massachusetts. Include system owner name, date project received permission to operate, date construction began, total final project cost, projected annual electricity generation, and any annual production shortfalls. Developer must also indicate whether the project was completed on schedule, and if not, explain the reasons for such delay.
3. The Developer will demonstrate its project development experience, including interacting with state environmental and permitting agencies and energy departments and similar city / town / district boards.
4. The Developer must demonstrate its ability to manage the power project development, including

the utility interconnection agreement, credit purchase agreement (either alternative on-bill credit agreements or net metering agreements), state and local permits, and project insurance including insurance on environmentally sensitive land.

5. Provide a plan for staffing the development, construction, operation, and maintenance of the project. Indicate the number of Developer's full-time personnel to be assigned to the project in each phase. If subcontractors, rather than the Developer's in-house staff, are to be responsible for any work, the Developer shall include a list of subcontractors that may be used, their role and the location of the subcontracted workers.

5.2 FINANCIAL CAPACITY

The Developer shall submit documentation regarding financial capacity to complete the project:

1. Form of legal entity and year entity was established, any changes in ownership status over the past five (5) years, other entity names, if any and ultimate parent company, if applicable.
2. Annual reports or other current audited financial data of the Developer shall be submitted for the prior three (3) years.
3. Developers must identify specifically those portions of their financial history, if any, which they believe contain confidential information. These portions of the Developer's submittal treated as confidential under Section 1.7 will not be released as public documents.
4. The Developer with the winning bid must demonstrate its ability to obtain project financing.
5. Financial Assurance. The Developer will be required to provide evidence of ability to meet the Financial Assurance requirements discussed in Section 2.6 of this RFP.
6. Discuss whether your firm has ever been involved in a lawsuit or dispute regarding a contract. If so, please provide all such incidents and describe the circumstances and outcomes of such lawsuit or litigation. Further, you must disclose whether your firm has been barred from providing services in Massachusetts or any other states.

5.3 TECHNICAL PROPOSAL

Each Developer shall submit documentation showing the technical approach to the project:

5.3.1 System Design and Permitting

- a) Provide details on the scope of the projects, preliminary design and systems size and layout, required resources, and expected District responsibilities, if any.
- b) Describe Developer's approach to the technical design of the project.
- c) List all procedures, formulas and methodologies including special metering or equipment, which Developer would use to determine electricity generation.
- d) Provide project development schedule.
- e) Describe all permitting and approvals required for the projects.
- f) For any design work conducted by third-party experts, please identify whether Developer takes engineering risk including stamping engineering submittals.

5.3.2 Construction and Commissioning

- a) State Developer's proposed construction schedule. Submit a preliminary project schedule with the Technical Proposal using Day 0 as day Site Lease Agreement is signed, Developers should complete and include the following target schedule:

Site Lease Agreement signature date	Day 0
Permitting begins	0 + _____ days
Final design plans complete	0 + _____ days
Equipment ordered	0 + _____ days
Construction begins	0 + _____ days
Permission to Operate & Electrical generation begins	0 + _____ days

- b) Discuss Developer’s project management protocols to ensure schedule adherence, including willingness to post liquidated damages for delays.
- c) Discuss the role Developer takes in managing subcontractors including subcontractor oversight.
- d) Describe Developer’s approach to handling construction debris, recycling, and disposition. Refer to Attachment E for information on solar development in Wellhead Protection Zones.

5.3.3 Service and Maintenance

In your responses to the following, include a description of Developer’s experience with ensuring that equipment warranties and maintenance records are maintained and the requirements of the performance guarantee for generation is met.

- 1. Describe Developer’s capability and plan to provide ongoing service and maintenance.
- 2. Provide the numbers of accessible truck-based service and maintenance professionals and describe their level of training and experience.

PART 6 – SUBMITTAL REQUIREMENTS: PRICING PROPOSAL

The Pricing Proposal will be submitted in a separate envelope from the Technical Proposal. Only those Developers that meet the minimum qualifications will have their Technical and Pricing Proposals considered and evaluated.

6.1 PRICING PROPOSAL

Pricing Proposals will be submitted in a separate email document and shall consist of quarterly payments to be made to the District for the term of the lease. The Price Proposal must include:

- (a) Monthly rent under the lease during the term, including any renewal terms,
- (b) Performance Bond Amount (from Exhibit 1 Section 5.3),
- (c) 225 CMR 20.00 Base Compensation Rate used in the Price Proposal submittal.

The Pricing Proposal must include completed forms Attachments F, G and H. Developer should include all assumptions and conditions in the Pricing Proposal.

Attachment A - Contiguous District Properties off Pine Valley Drive



Property boundaries of the four parcels owned by Auburn Water Department. Access to the two parcels west of the railroad tracks is from Pine Valley Drive. The two parcels east of the tracks are not currently accessible by vehicles and access agreements with either the railroad or abutters will to be developed by applicant

Attachment B - Satellite Image of Property Boundaries, Zone 1s and Potential Array Locations



Auburn Water District property boundaries are outlined in red, the two Zone 1 boundaries for AWD's two water supply wells are in yellow, and four potential locations for solar arrays are outlined in blue.

Attachment C - Link to "Town of Auburn Zoning By-Laws" dated October 26, 2021

[Auburn Zoning By-Laws \(auburnguide.com\)](http://auburnguide.com)

Attachment D - Link to "Town of Auburn General By-Laws", dated May 2022

[General-By-Laws-PDF \(auburnguide.com\)](#)

**Attachment E – Guideline # BRP 2011-1: Guideline Bureau of Resource
Protection Drinking Water Program**

Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 617-292-5500

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

Guideline
Bureau of Resource Protection
Drinking Water Program

Information to be Submitted to MassDEP for Proposed Solar and Wind Energy Projects on
Lands Owned or Controlled By Public Water Systems for Drinking Water Purposes

Effective Date: September 1, 2011

Updated: March 26, 2012; April 18, 2018

Guideline # BRP 2011-1

Applicability: Public Water Systems

Approved by: Douglas Fine, Assistant Commissioner, Bureau of Water Resources

Signed

Supersedes Guideline: none

To provide guidance to public water suppliers on information to be submitted to MassDEP for wind and solar energy projects proposed on lands owned or controlled by public water systems for drinking water purposes.

Applicability: This Guideline applies to public water suppliers and their representatives requesting written approval from MassDEP to install solar and wind energy projects on lands held by public water systems for drinking water purposes.

Note: The public water supplier may need to seek additional approvals from other entities and/or MassDEP, including, but not limited to, municipal approval, legislative approval pursuant to Article 97, and MEPA approval pursuant to 301 CMR 11.00.

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751. TTY#
Mass Relay service 1-800-439-2370
MassDEP Website: www.mass.gov/dep
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Authority. /Background:

M.G.L. Chapter 111, Section 160 titled "Examinations of water supply; Rules; Penalty for violation," states that the department may "make rules and regulations and issue such orders as its opinion may be necessary to prevent the pollution ... and to ensure the delivery of a fit and pure water supply to all consumers."

310 CMR 22.21 (1) and 22.21 require activities in the Zone I to be limited to those directly related to the provision of public drinking water or that will have no significant adverse impact on water quality.

310 CMR 22.24: Sale, Transfer of Property Interest, or Change in Use of Water Supply Land (1) No supplier of water may sell, lease, assign, or otherwise dispose of, or change the use of, any lands used for water supply purposes without the prior written approval of the Department. The Department will not approve any such disposition or change in use unless the supplier of water demonstrates to the Department's satisfaction that such action will have no significant adverse impact upon the supplier of water's present and future ability to provide continuous adequate service to consumers under routine and emergency operating conditions, including emergencies concerning the contamination of sources of supply, failure of the distribution system and shortage of supply.

In addition, M.G.L. Chapter 40, Section 15B, states "[a] town, city or district authorized to furnish water for domestic purposes, may, with the advice and approval of the state department of environmental protection ... in its discretion, by lease, license or other agreement, permit the construction and maintenance on any land under its control of towers, poles, wires, and other

structures for the purpose of transmitting electric power over lands and water held for water supply purposes; provided, that such lease, license or agreement will not, in the opinion of the said department, affect or interfere with the water supply; and provided, further, that said city, town or district may, with the approval of said department, revoke said lease, license or agreement for cause to be determined by it." Review and Approval

MassDEP supports wind and solar energy projects but also recognizes that lands that are under the control of public water systems have been identified as the most critical to protect public drinking water reservoirs and wells. In addition, these lands may be the future sites for new or replacement public water system sources. Pursuant to 310 CMR 22.24(1), public water suppliers must obtain MassDEP approval from MassDEP for projects described in the Applicability section above.

Public water suppliers shall submit a written certification to MassDEP that proposals to construct and maintain wind and solar energy projects will have no significant adverse impact on the public water supplier's present and future ability to provide continuous adequate service to consumers under routine and emergency operating conditions, including emergencies concerning the contamination of sources of supply, failure of the distribution system and shortage of supply. The certification should include maps, plans or other documentation to support that statement and should address, at a minimum, the information listed in Part A below. Public water suppliers and their contractors, operators, and/or lessees will be required to adhere to the applicable conditions in Part B below as a condition of their approval. For Zone I projects, the public water supplier should also certify that the wind and/or solar energy project will have no significant adverse impact on water quality and that the energy generated by the facility will be used to benefit, either by direct consumption or by other means, the operation of the public water system. In addition, there shall be a minimum of a 200 ft. no disturbance area from the well within the Zone I for the installation of, or land clearing related to, solar installations. Site characteristics and conditions may require a larger no disturbance area at the discretion of MassDEP staff. Solar batteries and solar battery storage housing (trailers, buildings, etc.) are prohibited within the Zone I.

If a public water supplier submits a written certification in accordance with this Guideline, MassDEP approval will be presumed unless the agency informs the public water supplier otherwise within 30 days of the Department's receipt of the submission. MassDEP may request additional information or deny the request within 30 days.

A. General Site Information and Site Design

- The location of the public water system source; water supply protection areas; and depth to ground water.
- Project footprint; new easements or roads; existing water system structures.
- A description of the wind or solar infrastructure proposed for the site.
- The estimated schedule and duration for the construction of the project.
- The type of soils, vegetation, and slopes in the project area; the location and amount to be disturbed; and the method of soil/slope stabilization during and after the project.
- There shall be a minimum of a 200 ft. no disturbance area from the well within the Zone I for the installation of, or land clearing related to, solar installations. Site characteristics and conditions may require a larger no disturbance area at the discretion of the Department.
- Solar batteries and solar battery storage housing (trailers, buildings, etc.) are prohibited within the Zone I.
- The location and amount of pervious surface that will be changed to impervious surface and a description of how stormwater will be managed on the site.
- A list of expected coolants, lubricants, cleaning products and other potential contaminants associated with the construction and maintenance of the infrastructure.
- Descriptions of any wash water disposal practices and/or equipment used at the site.
- For projects located within the Zone I, an explanation of how the energy generated will benefit the operation of the public water system.
- Description of emergency response procedures (e.g. fire safety measures) in place.
- Any other information requested by MassDEP to protect the public water supply.

B. Conditions for Siting Solar Batteries and Battery Storage Housing (trailers, buildings, etc.) Outside the Zone I at Public Wells.

- There shall be no solar battery storage units or their housing (trailers, buildings, etc.) located within the Zone I.
- A smoke detection system must be installed and operating in the battery storage housing.
- Each battery chamber must have its own heat sensor and detection alarm system.
- The battery storage housing must be located above the 100 year floodplain.
- High pressure fire extinguishers containing Novec 1230 or equivalent must be located on site.
- The battery system must be stored in a self-containment area so that in the event of a fire, fire extinguishing chemicals will be completely contained.
- Battery storage units must number only those needed to support the solar installation at the site.
- Spent or expired battery units must be immediately removed from the site. There must be no stockpiling of battery units..
- Applicants may be required to increase water quality monitoring.
- MassDEP may consider revoking an applicant's participation in the Water Quality Monitoring Waiver Program.
- Applicants shall be subject to local and state regulations for proposed impervious surfaces.
- Stormwater from proposed impervious sources must be directed away from drinking water sources.

- The battery storage housing must not interfere with the operation of the public water system or access to the water distribution system.

C. Construction and Post-Construction Conditions

- All exposed soils and slopes shall be stabilized with erosion controls during and after construction until vegetation is established.
- There shall be a minimum of a 200 ft. no disturbance area from the well within the Zone I for the installation of, or land clearing related to, solar installations. Site characteristics and conditions may require a larger no disturbance area at the discretion of the Department.
- Solar batteries and solar battery storage housing (trailers, buildings, etc.) are prohibited within the Zone I.
- Vegetation related to the facility shall be managed through mowing or other mechanical means or with native plantings if possible. If pesticide use is necessary for employee safety, such as to control poison ivy, the application shall comply with local, state, and federal requirements. There shall be application of pesticides or fertilizers in the Zone I.
- There shall be no oil, hazardous materials, cleansers, or other potential contaminants stored on-site in the Zone I. If these materials are stored on-site in Zones II and III and in Zones A, B, and C, they shall properly labeled, covered and contained.
- Disposal of wash water at the facility shall be avoided or minimized to prevent contamination of ground or surface waters and will comply with any applicable regulatory requirement (including underground injection control registration).
- Emergency response procedures shall be developed by the public water system in conjunction with any contractors, operators, and/or lessees.
- The public water supplier shall notify MassDEP within 30 days of project completion.
- Any other conditions required by MassDEP to protect the public water supply.

MassDEP staff may conduct an initial site visit and/or a final inspection of the installation. The installation and operations are subject to review during sanitary surveys or other MassDEP inspections.

The public water supplier is responsible for ensuring that project construction and operation are consistent with the proposal and approval including all conditions. The public water system and this project remain subject to Massachusetts General Laws, the Massachusetts Drinking Water Regulations, all other relevant Massachusetts regulations, and MassDEP's authority herein.

Model CERTIFICATION

The PWS _____ provides this certification to MassDEP that its proposal to construct and maintain wind and solar energy projects will have no significant adverse impact on its present and future ability to provide continuous adequate service to consumers under routine and emergency operating conditions, including emergencies concerning the contamination of sources of supply, failure of the distribution system and shortage of supply. If this proposal is for Zone 1, PWS also certifies that the wind and/or solar energy project will have no significant adverse impact on water quality and that the energy generated by the facility will be used to benefit, either by direct consumption or by other means, the operation of the public water system.

Note: The public water supplier may need to seek additional approvals from other entities and/or MassDEP, including, but not limited to, municipal approval, legislative approval pursuant to Article 97, and MEPA approval pursuant to 301 CMR 1 1.00. .

In support of this proposal the PWS is attaching the following:

- The location of the public water system source; water supply protection areas; and depth to ground water.
- Project footprint; new easements or roads; existing water system structures.
- A description of the wind or solar infrastructure proposed for the site.
- The estimated schedule and duration for the construction of the project.
- The type of soils, vegetation, and slopes in the project area; the location and amount to be disturbed; and the method of soil/slope stabilization during and after the project.
- An acknowledgment that there shall be a minimum of a 200 ft. no disturbance area from the well within the Zone I for the installation of, or land clearing related to, solar installations. Site characteristics and conditions may require a larger no disturbance area at the discretion of the Department. .
- An acknowledgement that solar batteries and solar battery storage housing (trailers, buildings, etc.) are prohibited within the Zone I.
- The location and amount of pervious surface that will be changed to impervious surface and a description of how stormwater will be managed on the site.
- A list of expected coolants, lubricants, cleaning products and other potential contaminants associated with the construction and maintenance of the infrastructure.
- Descriptions of any wash water disposal practices and/or equipment used at the site.
- Description of emergency response procedures (e.g. fire safety measures) in place.
- For projects located within the Zone I, an explanation of how the energy generated will benefit the operation of the public water system.

PWS _____ also certifies that the proposal will meet the following conditions:

- All exposed soils and slopes shall be stabilized with erosion controls during and after construction until vegetation is established.
- There shall be a minimum of a 200 ft. no disturbance area from the well within the Zone I for the installation of, or land clearing related to, solar installations. Site characteristics and conditions may require a larger no disturbance area at the discretion of the Department.

- Solar batteries and solar battery storage housing (trailers, buildings, etc.) are prohibited within the Zone I.
- Vegetation related to the facility shall be managed through mowing or other mechanical means or with native plantings if possible. If pesticide use is necessary for employee safety, such as to control poison ivy, the application shall comply with local, state, and federal requirements. There shall be application of pesticides or fertilizers in the Zone I.
- There shall be no oil, hazardous materials, cleansers or other potential contaminants stored on-site in the Zone I. If these materials are stored on-site in Zones II and III and in Zones A, B, and C, they shall properly labeled, covered and contained.
- Disposal of wash water at the facility shall be avoided or minimized to prevent contamination of ground or surface waters and will comply with any applicable regulatory requirement (including underground injection control registration).
- Emergency response procedures shall be developed by the public water system in conjunction with any contractors, operators, and/or lessees.
- The public water supplier shall notify MassDEP within 30 days of project completion.

For the Siting of Solar Batteries and Battery Storage Buildings outside the Zone I at Public Wells

- There shall be no solar battery storage units or their housing (trailers, buildings, etc.) located within the Zone I.
- A smoke detection system must be installed and operating in the battery storage housing.
- Each battery chamber must have its own heat sensor and detection alarm system.
- The battery storage housing must be located above the 100 year floodplain.
- High pressure fire extinguishers containing Novec 1230 or equivalent must be located on site.
- The battery system must be stored in a self-containment area so that in the event of a fire, fire extinguishing chemicals will be completely contained.
- Battery storage units must number only those needed to support the solar installation at the site.
- Spent or expired battery units must be immediately removed from the site. There must be no stockpiling of battery units.
- Applicants may be required to increase water quality monitoring.
- MassDEP may consider revoking an applicant's participation in the Water Quality Monitoring Waiver Program.
- Applicants shall be subject to local and state regulations for proposed impervious surfaces.
- Stormwater from proposed impervious sources must be directed away from drinking water sources.
- The battery storage housing must not interfere with the operation of the public water system or access to the water distribution system.

_____ [signature] Date: _____

Title: _____ for _____ the Public Water System

Attachment F – Proposed System(s) Design Parameters

Specify for each proposed system:

System	West of Railroad	East of Railroad
System DC Rating (kW)		
DC to AC Derate Factor		
Module Wattage		
Array tilt angle		
Array azimuth		
Surface area of solar panels		
Land area needed		
Installation/ground mounting method		

Attachment G -Proposal Cover Page

Auburn Water District

To: Greg Woods, Superintendent Auburn Water District

From:

Name of Organization: _____

Address: _____

City, State, Zip _____

Telephone Number: _____

Email Address: _____

Federal Tax id (SS# for individuals): _____

Organization Structure: Partnership _____ Corporation _____ Joint Venture _____

Individual/Proprietorship _____ Other _____

Ownership: Public _____ Private _____ Non-Profit _____

I have read, understand, and agree to comply with the terms and conditions of the awarding authority as stated in the Awarding Authority's Request for Proposal. I acknowledge that I have accessed and reviewed the Awarding Authority website for RFP addenda noted below.

RFP Addenda (if any):

Addendum Number: _____ Dated: _____

Addendum Number: _____ Dated: _____

Addendum Number: _____ Dated: _____

Signature: _____

Print name and title

Attachment H - Certificate of Non-Collusion

Auburn Water District

The undersigned certifies under the penalties of perjury that this bid or Proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals.

(Signature of person signing Proposal)

(Printed Name)

(Title)

(Name of Business)

(Date)

EXHIBIT 1 – Lease Agreement (DRAFT)

This LEASE AGREEMENT (this “Lease”) is made and entered into this ____ day of [_____] (the “Effective Date”), by and between [_____], a [_____], with a usual place of business at _____ (“Lessee”), and the AUBURN WATER DISTRICT, a Massachusetts public water district established by Chapter 585 of the Acts of 1947, as amended, with a principal place of business at 75 Church Street, Auburn Massachusetts in Worcester County, Massachusetts (“Lessor”). Lessor and Lessee are sometimes referred to collectively hereinafter as the “Parties.”

RECITALS

A. Lessee is the developer, owner, and operator of solar energy generation equipment and facilities suitable for the production and delivery of electrical energy.

B. Lessor is a Massachusetts water district and is the owner of certain real property located off Pine Valley Drive in Auburn, Massachusetts 01501, more particularly described in Exhibit 1A attached hereto (the “Property”).

C. Lessee desires to (i) lease a portion of the Properties (the “Premises”) from Lessor, as shown on Exhibit 1A attached hereto, for purposes of constructing, installing, owning, operating, and maintaining Solar Facilities (as defined herein), and (ii) obtain certain ancillary rights affecting the Premises for purposes incidental thereto as more fully set forth below.

D. Lessor agrees to lease the Premises to Lessee for the purposes set forth in this Lease and to grant Lessee certain ancillary rights, all on the terms and conditions herein contained.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Lessee and Lessor hereby agree as follows:

1. Definitions. Capitalized terms not otherwise defined herein shall have the meaning set forth below:

1.1 “Interest Rate” means the rate of interest equal to one percentage point over the rate of interest announced by The Wall Street Journal as its “prime” or “base” lending rate on the Solar Commencement Date, or if such rate can no longer be determined, the base or prime rate advertised by such other commercial bank having an office in New York, NY agreed to by the Parties.

1.2 “Environmental Attributes” means any and all environmental benefits, air quality credits, emissions reductions, offsets, and allowances, howsoever entitled, directly or indirectly attributable to the generation from the Solar Facilities and their displacement of conventional energy. Environmental Attributes include but are not limited to: (1) any benefit accruing from the renewable nature of the generation of energy from the Solar Facilities, (2) any avoided emissions

of pollutants to the air, soil or water; (3) any avoided emissions of carbon dioxide (CO₂), methane (CH₄) and other greenhouse gases (GHGs); (4) displacements of energy generation by fossil fuel sources; (5) any reporting rights to these avoided emissions such as Green Tag Reporting Rights; (6) any certificates, attributes or other premiums or additional value for renewable, clean or green energy generation, or avoided emissions; and (7) any production tax credits or related generation subsidies.

1.3 “Environmental Incentives” include, but are not limited to, (i) federal, state or local production tax credits associated with the construction, purchase, operation, and/or maintenance of the Solar Facilities, (ii) any other financial incentives in the form of credits, reductions, or allowances associated with the Solar Facilities that are applicable to a local, state or federal income taxation obligation, (iii) grants or subsidies in support of renewable energy, (iv) emission reduction credits encumbered or used by the Solar Facilities for compliance with local, state, or federal operating and/or air quality permits, and all rebates, benefits, credits, reductions, tax deductions, offsets, and allowances and entitlements of any kind, howsoever entitled, resulting from the Environmental Attributes or operation of the Solar Facilities.

1.4 “Force Majeure” means any act or event that delays or prevents a Party from timely performing obligations under this Lease or from complying with conditions required under this Lease if such act or event, despite the exercise of reasonable efforts, cannot be avoided or mitigated by, and is beyond the reasonable control of the Party relying thereon as justification for such delay, nonperformance, or noncompliance. Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided or mitigated by, and are beyond the reasonable control of the Party relying thereon as justification for such delay, nonperformance or noncompliance, “Force Majeure” may include without limitation: an act of God or the elements; explosion, fire, epidemic, landslide, or mudslide; sabotage; terrorism; lightning, earthquake, flood or similar cataclysmic event; an act of public enemy, war, blockade, civil insurrection, riot, or other civil disturbance; or strike or other labor difficulty caused or suffered by a Party or any third party beyond the reasonable control of such Party. However, financial cost alone or as the principal factor shall not constitute grounds for a claim of Force Majeure.

1.5 “Interconnection Agreement” means an agreement entered or to be entered between the Lessee, as owner and operator of the Solar Facilities, and the local electric utility, National Grid.

1.6 “Interconnection Facilities” means all improvements the purpose of which is to transmit electrical power from the Solar Facilities to a utility grid or other system, including, without limitation, transformers, and electrical transmission lines.

1.7 “Photovoltaic Facilities” means any photoelectric cells or other equipment designed for the collection and/or generation of electrical power from solar radiation, including without limitation, solar panels, associated support structures, racking, floatation devices, braces, wiring, and related equipment.

1.8 “Tax Agreement” means the agreement entitled “Agreement for Payment in Lieu of Taxes for Real Property and Personal Property” entered or to be entered between the Solar Facilities owner and the Town of Auburn, concerning the real estate and personal property

taxation on the Premises as shown in Exhibit 1A.

1.9 “Hazardous Materials” means (i) any material, substance, product, petroleum, petroleum product, derivative, compound or mixture, mineral, including but not limited to asbestos and asbestos containing materials, gas, radon, radioactive materials, chemical, flammable explosives, medical waste or other pollutant, urea formaldehyde foam insulation, lead, polychlorinated biphenyl, in each case whether naturally occurring, man-made or the by-product of any process that is toxic, harmful or hazardous or acutely hazardous and that may cause damage to human health or the environment, safety or real Premises, or (ii) any material or substance sustaining a cause of action or claim under any Environmental Law, whether or not such material or substance is defined as hazardous as such under any Environmental Law and whether such substance is now or hereafter designated as hazardous, under any Environmental Law, or by any environmental agency or otherwise.

1.10 “Environmental Laws” means all federal, state and local laws, ordinances, rules, regulations and legally enforceable policies and guidelines regarding the environment, human health or safety (herein “Environmental Laws”) applicable to the Premises, or the use thereof, including, without limitation, the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), Resource Conservation & Recovery Act (42 U.S.C. Sect. 6901 et seq.), Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.), Toxic Substances Control Act (15 U.S.C. Sect. 2601 et seq.) the Clean Air Act (42 U.S.C. Sect. 7401 et seq.), and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sect. 9601 et seq.); and Massachusetts General Laws Chapter 21E and the Massachusetts Contingency Plan.

2. Premises. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises consisting of approximately [_____] acres as shown on Exhibit 1A and described as “Premises” commencing on the Construction Commencement Date (as hereinafter defined) and terminating on the expiration of the Term (as hereinafter defined), subject to extensions, in accordance with the terms and conditions set forth herein.

As used herein, the term “Premises” means of that portion of the Property as set forth on Exhibit 1A. The term “Remaining Lessor Property” means the Property, exclusive of the Premises. Throughout the Term of the Lease, Lessee and its employees, contractors, vendors, licensees, and invitees shall have non-exclusive, reasonable access to, over and upon the Remaining Lessor Property from public ways within the Town of Auburn for access to and from the Premises.

2.1 Term. The term of this Lease (the “Term”) shall be comprised of the following:

2.1.1 A construction period commencing upon the date of this Lease (the “Construction Commencement Date”) and expiring upon the day immediately preceding the date that commercial operation of the Solar Facilities commences (the “Solar Commencement Date”) (from the Construction Commencement Date until the day immediately preceding the Solar Commencement Date, herein referred to as the “Construction Term”); provided, however, that the Solar Commencement Date shall commence no later than [_____] . Lessee shall deliver written notice to Lessor of the date construction activities will commence on the Premises (the “Notice of Commencement”). Lessee shall also deliver written notice to Lessor of the Solar Commencement Date. If Lessee does not achieve the Solar Commencement Date by the deadline specified, then

this Lease may be terminated by Lessor and be subject to the applicable provisions of Section 12.

2.1.2 An initial operating term of twenty (20) years, beginning on the Solar Commencement Date, subject to extension or earlier termination as set forth herein (the "Operating Term"). Following the expiration of the Operating Term, Lessee shall fulfill the obligations set forth in Section 12 during the Decommission Period, as defined herein.

2.2 Payments to Lessor. The Rent Schedule attached hereto as Exhibit 1B sets forth the monthly rent (the "Rent") due from Lessee to Lessor. Lessee's obligation to pay Rent shall begin on the Solar Commencement Date and continue throughout the Term. The total amount of Rent for each year shall be payable in monthly installments, payable in advance, on the first day of each and every calendar month of the Term. If the Solar Commencement Date shall occur on a date other than the first day of a calendar month, the Rent for such month shall be adjusted on a per diem basis.

All payments shall be addressed and directed to the Superintendent, Auburn Water District, P.O. Box 187, 75 Church Street, Auburn, MA 01501.

2.3 Solar Facilities. Lessee shall be the sole legal and beneficial owner and operator of the Solar Facilities, which Solar Facilities may be upgraded or replaced with similar or dissimilar technology; provided, however, that if such upgrade or replacement may reasonably be expected to have a material adverse effect on the Remaining Lessor Property, the same shall be made only subsequent to Lessor's approval of all plans and specifications for same, which approval shall not be unreasonably withheld. The Solar Facilities shall remain the personal property of Lessee and shall not attach to or be deemed a part of, or become a fixture to, the Premises. At all times, Lessee shall have one hundred percent (100%) of all right, title and interest in and to all Green Tags, Green Tag Reporting Rights, Environmental Incentives and other items of whatever nature relating to Environmental Attributes and Environmental Incentives of the Solar Facilities. Lessor acknowledges that Lessee will receive federal tax credits and accelerated depreciation on the Solar Facilities directly related to the construction and continued operation of the Solar Facilities and Lessor acknowledges that such tax credits and accelerated depreciation are the sole right and property of Lessee. Lessor shall execute and furnish any instrument and/or take any action reasonably requested by Lessee to perfect, confirm or maintain the Lessee's right, title and interest in the items described in the preceding two sentences so long as all costs and expenses associated with such required action are borne solely by Lessee. Lessee will be responsible for the planning, construction, operation and maintenance of the Solar Facilities at Lessee's sole cost and expense and shall be solely responsible for the cost of maintaining the Premises in a manner consistent with a "triple net" lease and in compliance with the MA Department of Environmental Protection ("MassDEP") regulations pertaining to renewable energy development, operation, and maintenance within Wellhead Protection Zones 1 & 2. Lessee will comply with applicable laws and regulations relating to the operation of the Solar Facilities and the generation and sale of energy, including obtaining and maintaining in effect all relevant approvals and permits.

2.4 Sale of Energy

2.4.1 The Lessee shall have the sole and exclusive right to convert all of the solar resources of, and to conduct Operations (as hereinafter defined) on, the Premises. Except as

otherwise provided in the Lease Agreement, any economic benefit from the transmission of energy from the Solar Facilities shall be the sole right, title and interest of Lessee and any economic benefit which is initially credited or paid to the Lessor for such energy, together with any and all Environmental Attributes and/or Environmental Incentives, will be assigned by Lessor to Lessee without delay. Lessor shall also execute and furnish any instrument and/or take any action reasonably requested by Lessee to assign, transfer, perfect, confirm or maintain the Lessee's right, title and interest in the items described in the preceding sentence.

All rights claimed by the Lessee in this Lease for the right to operate the Solar Facilities and to obtain the economic benefits therefrom, whether it be by sale of electricity or by the claim of any of the benefits set forth in the preceding paragraph are subject to any and all applicable regulations of any governmental agency and it shall be the sole responsibility of the Lessee and not the Lessor to comply with same.

Under no circumstances shall the Lessor be responsible for the payment of any claim, charge, fee, permit, application, or any other payment of any kind which may be associated with the operation of the Solar Facilities or the transmission of electricity to the local electrical distribution network. All such charges or payments of any type or kind shall be borne by and be timely paid by the Lessee without any credit for or offset against or on account of any payment which may be due to Lessor from Lessee, whether same be rent, tax payment or any other payments due to the Lessor from Lessee under this Lease.

If the Lessor is required to take action as described in this paragraph, then the Lessee shall bear the cost of such action and reimburse the Lessor for such actual costs, including, but not limited to, reasonable attorney's fees for the Lessor's counsel.

2.5 Exclusive Rights of Lessee. For so long as there shall be no Event of Default by Lessee under its obligations under this Lease and for so long as this Lease has not been terminated, the Lessee shall have the sole and exclusive right to conduct operate the Photovoltaic Facilities on the Premises. Lessor shall not grant any rights in the Property that would materially interfere with Lessee's conduct of its operations in derogation of Lessee's sole and exclusive rights and privileges hereunder. For so long as there shall be no Event of Default by Lessee under its obligations under this Lease and for so long as this Lease has not been terminated, without the prior written consent of Lessee, Lessor shall not (i) grant, confirm, acknowledge, recognize or acquiesce in any right claimed by any other person or entity (other than as successor or assignee of the Lessee) to conduct Operations on the Premises, and Lessor agrees to give Lessee notice of any such claims and to cooperate with Lessee, at Lessee's sole cost and expense, in resisting and disputing such claims, or (ii) waive any right available to Lessor or grant any right or privilege subject to the consent of Lessor by law or contract, including, without limitation any environmental regulation, land use ordinance or zoning regulation, with respect to setback requirements, or other restrictions and conditions respecting the placement of the Solar Facilities on the Premises, except to the extent that such waiver or grant of rights is reasonably required in connection with the development or use of the Remaining Lessor Property.

Lessee further acknowledges and recognizes that this Lease and the Premises, as well as the Remaining Lessor Property, is subject to regulation by the MassDEP.

2.6 Contingencies. The parties acknowledge that this Lease is expressly contingent upon

the following (each a "Contingency" and together the "Contingencies"):

2.6.1 Receipt by Lessee of the Planning Board Site Plan Approval from the Town of Auburn.

2.6.2 An affirmative agreement with the Town of Auburn Board of Selectmen approving the Tax Agreement, in a form and on terms reasonably acceptable to Lessee and Lessor.

2.6.3 Lessee entering an Interconnection Agreement with National Grid; and

2.6.4 Lessee obtaining the insurance policies required herein.

Lessor and Lessee shall cooperate in Lessee's efforts to satisfy the Contingencies listed above and to take all reasonable steps to expedite same including, but not limited to, transmitting draft documents and explanatory materials furnished by Lessee, executing appropriate documents after review by Lessor's counsel, if deemed necessary by Lessor at Lessee's expense subject to the terms of Section 10 and limitations below, authorizing entry onto the Premises by Lessee, its employees, agents, engineers, surveyors, and others for purposes related to obtaining the permits including, but not limited to, the survey of the Premises the preparation of a site plan, the preparation of engineering studies or reports in support of the development of the Solar Facilities by Lessee, the preparation of applications and information required under the Interconnection Agreement and such other activities as may be reasonably deemed necessary by the Lessee in preparation for the construction of the Photovoltaic Facilities. Such entry shall be during normal business hours provided that none of same shall disrupt the normal operations on the Property during the conduct of any such activities. In addition, the Lessee shall be solely responsible to restore the Premises to its current condition following any such inspections or tests and all of the contractors, subcontractors or consultants shall be required by the Lessee to be insured for workmen's compensation and to carry commercial general liability insurance in forms and amounts reasonably acceptable to Lessor. Lessee shall be responsible for any damage to person or Property which may occur as a result of any of these entries onto the Property and shall indemnify and hold lessor harmless from any such personal injury or property damage.

2.7 Option to Extend. Lessee shall have the right to extend the Operating Term (an "Option to Extend") for the two (2) periods of five (5) years each (each an "Extension Term"). An Option to Extend shall be effectively exercised only if (a) Lessee gives notice of exercise to Lessor not less than 270 days prior to then-existing final day of the Term, and (b) there are no Events of Default outstanding on either the date of exercise or the first day of the Extension Term. Each Extension Term shall be on the terms and conditions of this Lease as existing on immediately preceding the commencement of such Extension Term, provided, however, that the number of Extension Terms available to Lessee shall be reduced by one (1) for each Option to Extend that is exercised and the Rent shall be as set forth in Exhibit 1B.

3. Access Rights and Solar License

3.1 Solar License. Lessor hereby grants to Lessee, from the Construction Commencement Date through the end of the Term, a Solar License over and on the Premises, whereby no structure shall be erected on, or vegetation be permitted on the Remaining Lessor

Property, which will, during daylight, cast a shadow on the Solar Facilities.

3.2 Access. Lessor grants to Lessee the access to the Premises.

4. Use of the Premises.

4.1 Permitted Uses. During the Term, Lessee shall have the right to occupy and use the Premises for solar energy generation, conversion, for the collection and transmission of electric power, and for related and incidental purposes and activities (collectively, "Operations") which shall be limited to the following:

(a) constructing, reconstructing, erecting, installing, maintaining, repairing, improving, upgrading, replacing, relocating, removing, using, monitoring and/or operating existing, additional or new (i) Photovoltaic Facilities and Interconnection Facilities, (ii) electrical production, transmission and distribution facilities, including without limitation, overhead and underground transmission, distribution or collector lines, circuit breakers, meters, conduit, footings, cabling and wires, (iii) overhead and underground control, communications and radio relay systems, (iv) interconnection and/or switching facilities, transformers and inverters, (v) control boxes and computer and monitoring hardware, (vi) utility installation, (vii) safety protection facilities, (viii) signs and fences, and (ix) other improvements, fixtures, facilities, machinery and equipment associated or connected with the generation, conversion, storage, switching, metering, step-up, step-down, transmission, distribution, conducting, sale or other use or conveyance of electricity (all of the foregoing, including the Photovoltaic Facilities and Interconnection Facilities, collectively "Solar Facilities") which Solar Facilities may be replaced with similar or dissimilar technology at Lessee's cost and expense; provided, however, that if such replacement may reasonably be expected to have a material adverse effect on the Remaining Lessor Property, the same shall be made only subsequent to Lessor's approval of all plans and specifications for same, which approval shall not be unreasonably withheld;

(b) Generating, producing, inverting, transforming, and transmitting energy related to the Operations of the Photovoltaic Facilities.

(c) Undertaking any other lawful activities, whether accomplished by Lessee or a third party authorized by Lessee, that are necessary, helpful, appropriate, desirable or convenient in connection with, incidental to or to accomplish any of the foregoing purposes so long as they are essential to the Operations of the Photovoltaic Facilities and the sale and transmission of electricity emanating therefrom, and are in accordance with all applicable laws, rules, ordinances, orders, and regulations of all governmental agencies ("Legal Requirements").

4.2 Lessee's Exercise of Rights. Lessee may, at any time and from time to time after the commencement of the Construction Term and throughout the Term, construct, install, use, maintain, repair, replace and/or relocate any part of the Solar Facilities (including, but not limited to, racks, panels, pipes, electric lines, conduits, wires and/or appurtenant fixtures and equipment and the like, wherever located on the Premises) and otherwise conduct and perform Operations in a manner Lessee deems reasonable and appropriate subject to the Legal Requirements.

5. Design and Construction of Solar Facilities.

5.1 Installation. Lessor acknowledges that the installation of all or a portion of the Solar Facilities may require physically mounting and adhering the Photovoltaic-Facilities on the Premises. Lessor's consent shall not be required for the installation, any reconstruction, maintenance, repair, relocation, removal, alteration or modification of all or any portion of the Solar Facilities; provided, however, that if such installation, reconstruction, maintenance, repair, relocation, removal, alteration or modification may reasonably be expected to have a material adverse effect on the Remaining Lessor Property, the same shall be made only subsequent to Lessor's approval of all plans and specifications for same, which approval shall not be unreasonably withheld. All costs and expenses (including permits or licenses) attributable to any installations by Lessee shall be borne by Lessee.

5.2 Liens and Claims. In the event that any contractor, subcontractor, vendor, supplier or any other party for whom Lessee is responsible makes claim of a demand for payment Lien against the Lessors, Lessee shall, within thirty (30) days following notice of such claim or demand, cause such claim or demand to be released and discharged (whether by obtaining and recording or filing a lien discharge, posting a bond as required under statute, or otherwise) at no cost to Lessor. Upon becoming aware of the existence of a claim or demand, the Lessee shall give prompt notice to the Lessor, providing the details of such claim or demand and the identification of the claimant. Lessee shall keep Lessor advised of the steps being taken by Lessee to have the claim or demand released and shall indemnify and hold Lessor harmless from any and all claims, costs, and expenses which Lessor may incur in the release of such claim or demand and adverse impact same may have to the Lessor before its removal, including but not limited to reasonable attorney's fees and the cost of any bond.

5.3 Performance Bond. Notwithstanding anything contained herein to the contrary, as a precondition to Lessee installing any component of the Solar Facilities at the Premises, Lessee shall post a bond in the amount of \$[_____] with a bonding company reasonably acceptable to Lessor to secure (a) the complete the initial construction and installation of the Solar Facilities, and (b) the removal of all components of the Solar Facilities at the expiration of the Term.

6. Maintenance and Repair.

6.1 Maintenance and Repair Obligations of Lessor and Lessee. Lessee shall, for the Term of this Lease, at Lessee's sole cost and expense, maintain and repair the Solar Facilities in accordance with all Legal Requirements.

6.2 Impact on Solar Facilities.

6.2.1 Lessor shall not (and shall not allow any other party to) move, remove, upset, disturb or otherwise handle any of the Solar Facilities except to the extent that it is necessary to take such action in order to prevent imminent damage to tangible property or personal injury, in which event Lessor shall notify Lessee as soon as practicable of the emergency event and the actions taken by or on behalf of Lessor. Lessor shall not be responsible for any action taken by it or its agents, servants, employees in connection or conjunction with such activity. Except in the case of an emergency, in connection with any maintenance or repairs by Lessor or anyone acting by or behalf of Lessor with respect to the Remaining Lessor Property, Lessor shall provide Lessee with not

less than thirty (30) days prior written notice of any unavoidable need to move, remove, upset, or otherwise handle any of the Solar Facilities.

7. Ownership of Improvements. Except as expressly set forth herein, the Solar Facilities shall at all times remain the property of the Lessee or its successors and assigns and the Lessor shall have no right, title, or interest therein. The Solar Facilities shall not be deemed to be fixtures (even if affixed to the Premises) and shall be and remain the sole property of Lessee.

8. Security. After the Solar Commencement Date, Lessee shall implement commercially reasonable measures that Lessee deems necessary or desirable to secure the Solar Facilities at Lessee's sole cost and expense; provided, however, that the plans for any fencing, signage or other security measures which may be visible from the Remaining Lessor Property shall be approved in advance by Lessor, such approval not to be unreasonably withheld. Such measures may, but not necessarily will, include warning signs, fences along the array perimeter or perimeter of the Premises, closed and locked gates, and other measures appropriate and reasonable to protect against damage or destruction of the Solar Facilities or injury or damage to persons or property resulting from the Solar Facilities and Operations. It shall be the Lessee's sole responsibility to conform in all such activities to the Legal Requirements of all governmental agencies which have jurisdiction over the Solar Facilities or the Premises.

9. Representations, Warranties and Covenants.

9.1 Representations, Warranties and Covenants of Lessor.

9.1.1 Lessor represents and warrants as follows to the best of Lessor's knowledge: (a) there are no circumstances known to Lessor and no commitments to third parties that may damage, impair or otherwise adversely affect Lessee's Operations, the Solar Facilities or their function including, but not limited to, blocking direct sunlight to the Photovoltaic System; (b) Lessor has good and lawful fee simple title to the Premises and all required legal access for ingress and egress to and from the Premises, free and clear of all mortgages or other liens (c) Lessor has the full right to enter into this Lease without the consent or approval of any other party; and (d) Lessee shall have quiet and peaceful possession and use of the Premises throughout the term of this Lease.

9.1.2 Lessor hereby agrees, for itself, its agents, employees, representatives, tenants, contractors, successors and assigns, that it will not initiate or conduct activities at any location that it knows or reasonably should know may damage, impair or otherwise adversely affect the Solar Facilities or their functions, including, without limitation, activities that may adversely affect the Photovoltaic System's exposure to sunlight Lessor further covenants for itself, its agents, employees, representatives, tenants, contractors, successors and assigns that it will not (i) materially interfere with or prohibit the free and complete use and enjoyment by Lessee of its rights granted under this Lease; (ii) take any action or permit any action to be taken which will materially interfere with the availability and accessibility of solar radiation over and above the Premises; (iii) take any action that will or may materially interfere with the transmission of energy to or from the Premises or by, over and through the easement areas; (iv) take any action or permit any action to be taken that may impair Lessee's access to the Premises and/or any portion of the Solar Facilities for the purposes specified in this Lease, or (v) plant, maintain or allow any vegetation or erect or maintain or allow any structure or use which will, during daylight, cast a

shadow on the Solar Facilities or permit the same to be done by others. To the extent that Lessor is provided with notice of plans to develop or build upon any properties directly adjacent to the Premises, then Lessor shall immediately provide Lessee with notice of such plan to develop or build.

9.2 Representations, Warranties and Covenants of Lessee. Lessee represents, warrants and covenants that: (a) subject to the Contingencies set forth herein, Lessee has the full right to enter into this Lease without the consent or approval of any other party; and (b) Lessee shall maintain and repair the Solar Facilities and the Premises in good repair and condition, in a neat and orderly manner and full compliance with requirements of this Lease and any governmental agency or authority having jurisdiction over the Solar Facilities and/or the Premises, including without limitation Environmental Laws.

9.3 Solar Facilities Property of Lessee; Transfer of Premises. Lessor acknowledges and agrees that Lessee is the exclusive owner and operator of the Solar Facilities, that no portion or component of the Solar Facilities is a fixture, and the Solar Facilities may not be sold, leased, assigned, mortgaged, pledged, or otherwise alienated or encumbered by Lessor. Lessor agrees that this Lease shall survive any Transfer of the Premises and it shall be the obligation of Lessor to inform any transferee of this Lease and the rights and obligations set forth herein.

9.4 Lessee Rights to Electricity and Environmental Attributes. Lessor acknowledges that Lessee and/or its affiliate and/or transferee is the exclusive owner of electricity generated by the Solar Facilities and of the Environmental Attributes and Environmental Incentives of and arising from the Solar Facilities. Lessor shall execute and furnish any instrument and/or take any action reasonably requested by Lessee to perfect, confirm or maintain the Lessee's right, title and interest in the items described in the preceding sentence.

10. Permits and Governmental Approvals. Lessee shall be responsible for obtaining, renewing, and maintaining, at its sole cost and expense, any governmental approvals necessary for the construction and operation of the Solar Facilities, including, but not limited to, the Utility Permits, any zoning variances, building permits, approvals, environmental statements, licenses, authority or other Legal Requirement from any county, state or federal authority (collectively, "Permits"), and shall pay all costs associated therewith. Lessor shall cooperate with Lessee as necessary to obtain any governmental approvals, at no cost or expense to Lessor, provided that Lessee shall reimburse Lessor for its reasonable actual out-of-pocket expenses directly incurred in connection with such cooperation in an amount not to exceed \$5,000.00 in the aggregate, including, but not limited to, reasonable attorney's fees, payable no sooner than the occurrence of the Solar Commencement Date. Lessor agrees to cooperate with and assist the Lessee in applying for any and all Permits that Lessee finds necessary or desirable for the operation of the Solar Facilities, all at Lessee's sole cost and expense.

11. Default and Remedies. The provisions of this Section 11 are subject to the provisions of Section 16 (relating to financing).

11.1 Event of Default Defined. The occurrence of any of the following shall be an "Event of Default" on the part of Lessee:

11.1.1 The failure by Lessee to pay any Rents or taxes when due, and such failure continues for ten (10) days after written notice of such failure to Lessee, provided, however, that Lessor shall not be obligated to provide such written notice more than three (3) times in any twenty-four (24) month period; or

11.1.2 The failure by Lessee to perform any of the other terms and conditions of this Lease and failure to remedy the same within thirty (30) days after receipt of notice from Lessor to do so, provided that in the case of breaches of obligations under this Lease which are susceptible to cure but cannot be cured within thirty (30) days after receipt of notice from Lessor through the exercise of due diligence, so long as the Lessee commences such cure within thirty (30) days after receipt of notice from Lessor and thereafter diligently and continuously pursues such cure, such breach shall not be deemed to create an Event of Default; or

11.1.3 The failure, not timely cured, by Lessee to make any payment or perform any term or condition of the Lease Agreement and/or the Tax Agreement. The breach of any one of the Agreements shall constitute a breach of all such Agreements; or

11.1.4 If Lessee shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due, or shall file a petition in bankruptcy, or shall be adjudicated insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or shall file an answer admitting or not contesting the material allegations of a petition against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Lessee or any material part of its assets; or

11.1.5 If there is an entry of an order for relief, or, in the absence of an order for relief, if, within sixty (60) days after the commencement of any proceeding against Lessee seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if within sixty (60) days after the appointment without the consent or acquiescence of Lessee of any trustee, receiver or liquidator of Lessee or of any material part of its assets, such appointment shall not have been vacated; or

11.1.6 If the interest of Lessee in the Premises shall be sold under execution or other legal process.

11.2 Bankruptcy Default.

11.2.1 If a petition is filed by, or an order for relief is entered against the Lessee under Chapter 7 of the United States Bankruptcy Code (the "Bankruptcy Code") and the trustee of the Lessee elects to assume this Lease for the purpose of assigning it, the election or assignment, or both, and subject to limitations then in force under the Bankruptcy Code, the same may be made only if all of the terms and conditions of Sections 11 of this Lease are satisfied. If the trustee fails to elect to assume this Lease for the purpose of assigning it within ninety (90) days after his appointment, this Lease will be deemed to have been rejected. The Lessor shall then immediately be entitled to possession of the Leased Premises without further obligation to the Lessee or the trustee, and this Lease will be terminated. The Lessor's right to be compensated for damages in such

bankruptcy proceeding, however, shall survive.

11.2.2 If the Lessee files a petition for reorganization under Chapters 11 or 13 of the Bankruptcy Code or a proceeding that is filed by or against the Lessee under any other chapter of the Bankruptcy Code is converted to a Chapter 11 or 13 proceeding.

11.3 Lessor Remedies. At any time following and during the continuance of an uncured Event of Default on the part of Lessee:

11.3.1 Lessor may cure any default by Lessee after Lessee's cure period has expired. If Lessor at any time by reason of Lessee's default pays any sum or does any act that requires the payment of any sum, the sum paid by Lessor shall be due immediately from Lessee to Lessor as additional rent hereunder, together with any interest due.

11.3.2 Subject to the requirement for notice and right to cure set forth hereinabove, Lessor may terminate Lessee's right to possession of Lessor's Premises upon written notice to Lessee. No act by Lessor other than the giving of such notice to Lessee shall terminate this Lease. This Lease and Lessee's rights and obligations hereunder shall continue as long as Lessor does not terminate Lessee's right to possession, and Lessor shall have the right to collect Rent, plus accrued interest, if any, when due. Upon termination, and subject to Lessor's compliance with the requirements of applicable laws, Lessor has the right to recover from Lessee the unpaid Rent and/or any other charges due hereunder or any charges, taxes, or rents due to Lessor under the Lease Agreement and/or the Tax Agreement, plus interest at the Interest Rate and costs including a reasonable attorney's fee from the date due until the date paid by Lessee.

11.3.3 In the event that Lessor elects to terminate Lessee's right to possession of the Leased Premises pursuant to this Section 11.3 following an Event of Default, Lessor may reenter and take possession of the Premises, and Lessee hereby waives any claim for damages as a result thereof, and Lessee shall be obligated to pay to Lessor as damages on demand, and Lessor shall be entitled to recover from Lessee, (a) all Additional Rent payable to the date of termination of Lessee's right to possession, plus (b) the cost to Lessor of all reasonable legal and other expenses and costs (including attorney's fees) incurred by Lessor in obtaining possession of the Leased Premises, in enforcing any provision of this Lease, in preserving the Premises during any period of vacancy, in taking reasonable steps to protect its interest in the Premises, in making such repairs as Lessor may reasonably deem necessary or advisable in operating and maintaining the Premises, and in re-letting the Premises, including reasonable brokerage commissions, plus (c) amounts equal to any Additional Rent herein reserved for the balance of the Term less the net amount of rent, if any, which may be collected and received by Lessor from the Premises for a period of time commencing upon termination of Lessee's right of possession and terminating on the sixth (6th) anniversary thereof. During the balance of the Term, Lessor may relet the Premises, or any part or parts thereof (but in no event shall Lessor be obligated to do so), for a term or terms which may at Lessor's option be less than or extend after the Term, and Lessor may grant concessions or charge a rental in excess of that provided in this Lease (and Lessee shall have no right to any excess), plus any damages allowable at law or in equity.

11.3.4 Lessor may sue for and collect any amounts which may be due pursuant to the provisions of the preceding subsections of this Lease from time to time as Lessor may elect, but no such suit shall bar or in any way prejudice the rights of Lessor to enforce the collection of amounts due at any time or times thereafter by a like or similar proceeding.

12. Surrender and Restoration; Holding Over.

12.1 Surrender; Restoration. Upon any termination, surrender, or expiration of this Lease, except as expressly set forth herein, Lessee shall remove the Solar Facilities and all of Lessee's improvements and shall peaceably deliver to Lessor possession of the Premises or any part thereof, and other rights granted by this Lease. Upon any termination, surrender or expiration of this Lease, Lessee shall restore the Premises to its condition at the Effective Date, considering ordinary and reasonable wear and tear since the Effective Date, and shall repair any damage to the Premises as a result of any removal of the Solar Facilities under this Section. Said restoration shall be completed within six (6) months following the termination of the Operating Term (the "Decommissioning Period"). The obligation of the Lessee to the Lessor under the terms of this Lease for the payment of such use and occupancy and associated costs, and taxes is independent of the obligation to restore the Premises and shall not be affected by the provisions of this Section 12.1. Notwithstanding the foregoing, the Lessee shall surrender all roadways or access ways constructed by Lessee upon the Premises or the Remaining Lessor Property upon the expiration or earlier termination of the Lease in their then as-is condition.

12.2 Holding Over. If Lessee shall remain in possession of the Premises without extension after the expiration of the Term, Lessee shall hold as a tenant at sufferance.

12.3 Decommissioning Obligations. In the event that Lessee fails to timely fulfill the Decommissioning Obligations, then Lessor shall be entitled to file a claim, or multiple claims, against the bond required under Section 5.3 to obtain the funds necessary to complete the Decommissioning Obligations. In addition to and without limiting the foregoing, any property on the Premises after the Decommissioning Period shall become the property of Lessor and Lessee shall immediately, upon demand, reimburse Lessor for all of Lessor's costs incurred in connection with removing and disposing of the Solar Facilities. In the event Lessee fails so to remove any such components of the Solar Facilities or fails to repair any such damage to the Premises or Remaining Lessor Property, Lessor may perform such work and collect from Lessee the cost of such work.

13. Insurance

13.1 Commercial General Liability and Property Damage Insurance. Commencing on the date of the Construction Commencement Date and during the remainder of the Term, and except to the extent otherwise required by Applicable Legal Requirements or by the Interconnection Agreement, Lessee at its cost shall maintain commercial general liability insurance on the Premises that is written on an occurrence basis insuring against all liability for personal injury and property damage arising out of and in connection with the Premises, the Permitted Use or Lessee's use or occupancy of the Premises, in standard form with a general aggregate limit of not less than \$5,000,000, a products-completed operations aggregate limit of not less than \$2,000,000 and a per occurrence limit of not less than \$2,000,000 for bodily injury and property damage, with a deductible amount of \$10,000 and which shall include operations and blanket contractual liability coverage which insured performance of Lessee of the indemnity provisions of this Lease. The Auburn Water District shall be named as an additional insured.

13.2 Property Insurance-Personal Property. Commencing on the date of the

Construction Commencement Date and during the remainder of the Term, Lessee at its cost shall maintain on all of its personal property on or about the Premises a policy of “all risk” or “special causes of loss” property insurance, with a deductible amount of \$10,000 and with vandalism and malicious mischief endorsements, to the extent of at least 100 percent of their full replacement.

13.3 Automobile Insurance. Business automobile liability insurance (occurrence coverage) for owned, non-owned, and hired automobiles with a minimum combined single limit of liability of \$1,000,000 each accident for bodily injury and property damage.

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

13.5 Lessor’s Insurance. During the Term, Lessor at its cost shall maintain insurance of the type and in the amount(s) customarily maintained by the Auburn Water District against acts, omissions or negligence by Lessor.

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

13.7 Policy Delivery, Payment Evidence. Concurrent with the delivery of the Notice of Commencement and not less than thirty (30) days prior to the expiration dates of the expiring policies furnished pursuant to this Article 13, certificates of insurance bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to the other Party of such payment shall be delivered by Lessee and Lessor to the other Party.

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

14. Indemnity.

14.1 Lessee shall indemnify, defend and hold harmless Lessor and their respective managers, officers, agents and employees (the “Lessor Indemnitees”) from any claim, demand, lawsuit, or action of any kind for injury to or death of persons, including, but not limited to, employees of Lessee or Lessor, and damage or destruction of Premises, including, but not limited to, claims of any utility company or other loss or damage incurred by Lessor, arising out of (a) acts or omissions or willful misconduct of Lessee, its agents, officers, directors, employees or contractors and subcontractors; or (b) the material breach by Lessee of any of its obligations under this Lease; or (c) claims made against Lessor by a contractor, subcontractor, laborer, vendor, supplier or any other party for whom Lessee is responsible. The obligation to indemnify shall extend to and encompass all reasonable costs actually incurred by Lessor and any Lessor Indemnitee in defending

such claims, demands, lawsuits or actions, including, but not limited to, attorney, witness and expert witness fees, and any other litigation related expenses. Lessee's obligations pursuant to this Section 14.1 shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the negligence or willful misconduct of Lessor, the Lessor Indemnities, or their respective contractors, successors, or assigns, or to the acts of third parties for which no specific obligation of indemnification has otherwise been given by Lessee. Lessee shall pay any cost that may be incurred by Lessor or the Lessor Indemnitees in enforcing this indemnity, including reasonable attorney's fees.

15. Assignment.

15.1 Lessor's Assignment. The Lessor shall have the right to assign any of its rights, duties, or obligations under this Lease without the prior written consent of the other Party, to a purchase of the Premises, provided that such assignee agrees in writing to be bound by all of the terms and conditions of this Lease. Following such assignment, including the delivery to the assignee of the balance of the any security deposit, if any, given by Lessee to Lessor in accordance with this Lease, (a) the Lessee shall recognize and attorn to the assignee and (b) the assignor shall be automatically released from any and all liabilities and/or obligations arising hereunder from and after the effective date of such assignment to the extent assumed in writing by the assignee. At the request of the Lessor, the Lessee shall execute an estoppel certificate and such other instruments as are reasonably requested by the Lessor to confirm any such assignment and the continuing viability of this Lease.

15.2 Lessee Assignment. Subject to the provisions of Section 16 (relating to financing), Lessee shall not transfer or assign (collectively, an "Assignment") this Lease or any interest therein, without prior written consent of Lessor. Notwithstanding the prior sentence, without Lessor's consent, Lessee may (i) make an Assignment to an affiliate of Lessee or Guarantor (provided that such Assignment shall not release Lessee or Guarantor from its obligations hereunder) or (ii) make an Assignment to a successor in the operation of the assignor's or transferor's assets and/or business by reason of a reorganization, merger, consolidation, sale or foreclosure, where substantially all of such assignor's or transferor's assets are acquired by such successor; provided, however, that in the case of an Assignment described in clause (ii) the assignee or transferee meets all of the Conditions (as defined below). Lessor's consent to any other Assignment shall not be unreasonably withheld if Lessor has been provided with reasonable evidence that the proposed assignee: (x) has comparable experience to that of the initial named Lessee in operating and maintaining photovoltaic solar systems comparable to the Solar Facility; and (y) has comparable financial capability to that of the initial named Lessee and Guarantor (the requirements of (x) and (y) are, collectively, the "Conditions"). Any Assignment in violation of this Article 15 will be null and void.

16. Lessee and Lessor Financing.

16.1 Lessee Financing.

16.1.1 Right to Grant a Security Interest. Lessee or its successors and/or assigns may from time to time, without the prior written consent of Lessor, encumber the interest of Lessee or a successor and/or assignee in this Lease and the rights granted hereunder by one or more security

instruments (a "Security Interest"), provided that any Security Interest and all rights acquired under it shall (i) be subject to each and all of the covenants, conditions and restrictions stated in this Lease, (ii) be subject to all rights and interests of Lessor and shall not constitute a lien against Lessor's fee simple interest in the Property and (iii) shall be subordinate to the current or future mortgage lien of the Lessor's current or future mortgagee(s) subject to a non-disturbance agreement executed by such mortgagee and an attornment agreement by Lessee, and further provided, that Lessee or an assignee shall promptly upon the execution of any Security Interest deliver a true copy thereof to Lessor. Without limiting the generality of the foregoing, nothing contained in such Security Interests shall release or be deemed to relieve Lessee from full and faithful observance and performance of the terms, covenants and conditions contained in this Lease to be observed and performed by Lessee or from any liability for the non-observance or non-performance of any of the terms and conditions hereof, nor be deemed to constitute a waiver of any rights of Lessor hereunder, except as expressly provided for herein, and further provided that such Security Interest shall be subordinate to the Security Interest referred to in paragraph 28 given to secure the full and faithful performance of this Lease and the Tax Agreement.

16.1.2 Protection of Security Interest. Any Security Interest Holder of any interest of Lessee hereunder shall, for so long as its Security Interest is in existence and until the lien thereof has been extinguished, be entitled to the following protections:

(a) Notice of Default. Notwithstanding any default by Lessee under this Lease, Lessor shall have no right to terminate this Lease unless and until Lessor shall first have given the Security Interest Holder(s) a written notice of Lessee's default and failure to cure same within the period(s) specified in Article 11 and thereafter afforded the Security Interest Holder(s) an opportunity to cure such default within 30 days and the Security Interest Holder(s) shall have failed to effect the cure of such default within 30 days. It is understood that the Lessor shall have the right to give to the Security Interest Holder(s) written notice of the default and demand to cure simultaneously with the notice given to Lessee, and all such cure periods shall run concurrently for 30 days. The Security Interest Holder shall be entitled to remedy any default under this Lease in the manner and on the same terms as granted to Lessee in Article 11 of this Lease.

(c) Right to Perform. The Security Interest Holder shall have the right at any time to pay any Rent due hereunder and to perform or cause to be performed any other obligation of Lessee at or within the time such payment or performance is required under this Lease. Nothing in this Lease shall be construed to obligate the Security Interest Holder to cure any default of Lessee.

(d) Foreclosure. If Lessee's Security Interest Holder becomes the assignee of this Lease by means of foreclosure or transfer in lieu thereof, such Security Interest Holder shall be personally liable under this Lease only for the period the Security Interest Holder remains a successor Lessee hereunder, provided that any subsequent assignee or Lessee shall assume and agree to be bound by all the terms and conditions of this Lease

(e) Re-entry and Repossession. Following (i) any re-entry and repossession of the Premises by Lessor or (ii) any termination of this Lease (whether by rejection of the Lease in any bankruptcy or similar proceeding or otherwise), Lessor shall deliver written notice to the Security Interest Holder indicating the completion of Lessor's re-entry and repossession of the Premises or termination of this Lease.

17. Estoppel Certificate

17.1 Estoppel Certificate from Lessor. At the request of Lessee or a Security Interest Holder, Lessor shall execute, acknowledge and deliver to such Lessee or Security Interest Holder a written statement declaring: (i) either that the Lease is unmodified and in full force and effect, or the manner in which this Lease has been modified and whether the Lease as so modified is in full force and effect; (ii) the dates to which Lessee's monetary obligations hereunder have been paid in advance; (iii) to Lessor's knowledge, whether Lessee is or is not then in default hereunder; and (iv) to Lessor's knowledge, whether any past defaults of Lessee have been fully cured.

17.2 Estoppel Certificate from Lessee. At the request of Lessor, Lessee shall execute, acknowledge and deliver to Lessor a written statement declaring: (i) either that this Lease is unmodified and in full force and effect, or the manner in which the Lease has been modified and whether the Lease as so modified is in full force and effect; (ii) the dates to which Lessee's monetary obligations hereunder have been paid in advance; (iii) to Lessee's knowledge, whether the Lessor is or is not then in default hereunder; and (iv) to Lessee's knowledge, whether any past defaults of Lessor have been fully cured.

18. Casualty/Eminent Domain

18.1 Casualty. If any part of the Premises is damaged by fire or other casualty so as to render it inoperable and the Premises substantially unsuitable for operation of the Lessee in its reasonable determination, Lessee shall either promptly restore and repair the Premises or terminate this Lease by providing at least thirty (30) days prior written notice thereof to Lessor and on the date so specified, this Lease shall expire as fully as if such date were the date set forth above for the expiration of this Lease, and this Lease shall be null and void, without recourse to the Parties, except that the provisions hereof that are stated herein to survive said termination shall so survive. Upon any such termination, Lessee shall be entitled to collect all insurance proceeds payable to Lessee on account thereof and to be reimbursed for any prepaid Rent.

18.2 Eminent Domain. If a taking authority takes all of the Premises by Eminent Domain, this Lease shall terminate as of the date title vests with the taking authority. If a substantial portion of the Premises are taken and the taking, in Lessee's reasonable determination, renders the remaining Premises substantially unsuitable for the operation, Lessee may terminate this Lease by written notice thereof within sixty (60) days of such taking, and on the date so specified, this Lease shall expire as fully as if such date were the date set forth above for the expiration of this Lease, and this Lease shall be null and void, without recourse to the Lessee, except that the provisions hereof that are stated herein to survive said termination shall so survive including all balances due to the date of termination to Lessor under this Lease, and the Tax Agreement. The Lessee will be entitled to share in the taking proceeds in proportion to the values of its ownership interest in the personal property located on the Premises which, for Lessee, may include, if applicable the value of the Premises, moving expenses and business relocation expenses.

19. Notice.

Any notice or communication required, permitted, or contemplated hereunder shall be given in writing, addressed to the Party to be notified at the address or set forth below or at such other address or addresses (s) as a Party may designate for itself from time to time by written notice hereunder and delivered by (a) hand delivery, (b) nationally recognized overnight courier with

delivery signature required, (c) registered or certified mail, return receipt requested. Any notice or communication so delivered shall be deemed duly given on the earliest of (i) the actual date received, (ii) the first (1st) business day following the day of depositing such communication with a nationally recognized overnight courier with next day delivery specified, so long as confirmation of delivery is given by such courier service, or (iii) the third (3rd) business day following the day of mailing if mailed by registered or certified mail, return receipt requested.

Lessor: Auburn Water District
Greg Woods, Superintendent
P.O. Box 187
75 Church Street
Auburn, MA 01501
(508) 832-5336
gwoods@auburnwater.com

Lessee: []
[]
[]
[]

20. Miscellaneous.

20.1 Waiver / Headings / Further Assurances. The waiver by either party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein. The headings in this Lease are solely for convenience and ease of reference and shall have no effect on interpreting the meaning of any provision of this Lease. The Parties acknowledge that each of them and their counsel have had an opportunity to review this Lease and that this Lease will not be construed against either Party merely because its counsel has prepared it. Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this section.

20.2 Memorandum. Lessor and Lessee agree (a) to execute, on the date hereof, a memorandum of this Lease setting forth the pertinent terms of this Lease in accordance with MGL c. 183 § 4.

20.3 Disputes and Choice of Law: Attorneys' Fees. This Lease is governed by and shall be interpreted in accordance with the laws of the Commonwealth of Massachusetts (without regard to principles of conflicts of laws). Any controversy or claim arising out of, or relating to, this Lease, or to the making, performance, or interpretation thereof, shall be submitted to the jurisdiction and venue of the Superior Court of the Commonwealth of Massachusetts for the County of Middlesex. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH

RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS LEASE.

20.4 No Partnership or Sale. Nothing contained in this Lease shall be deemed or construed by the Parties or by any third person to create the relationship of principal and agent, partnership, joint venture, buyer and seller of electrical energy, or any other association between Lessor and Lessee, other than the relationship of lessor and lessee.

20.5 Force Majeure. Except as otherwise specifically provided in this Lease, neither Party shall be considered in breach of the Lease or liable for any delay or failure to comply with the terms of this Lease (other than Lessee's obligation to pay Rent or any other sums due herein and to maintain insurance to be in effect), if and to the extent that such delay or failure is directly attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief under this Section shall immediately; (i) notify the other Party in writing of the existence of the force Majeure Event, which shall include any information reasonably available regarding the nature and anticipated duration of such Force Majeure Event, (ii) exercise all commercially reasonable and diligent efforts necessary to continue to perform its obligations hereunder and to minimize delay caused by such Force Majeure Event, (iii) promptly notify the other Party in writing of the cessation or termination of said Force Majeure Event and (iv) resume performance of its obligations hereunder as soon as practicable thereafter. If a Force Majeure Event shall have occurred that has prevented either Party from performing any of its material obligations hereunder and that has continued for a continuous period of one hundred twenty (120) days, then either Party shall have the right, but not the obligation, to terminate this Lease upon three (3) days' written notice to the other Party without penalty or further liability. Upon such termination due to a Force Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination or those which expressly survive the termination or expiration of the Lease pursuant to the terms hereof). The suspension of performance shall be of no greater scope and of no longer duration that is reasonably required by the Force Majeure Event.

20.6 Counterparts / Binding Effect / Entire Lease. This Lease and the rights, privileges, duties, and obligations of the Parties as set forth herein shall inure to the benefit of and be binding upon each of the Parties, together with their respective successors and assigns. This Lease represents the full and complete Lease between the Parties with respect to the subject matter contained herein and supersedes all prior written and oral Leases between the Parties with respect to said subject matter. This Lease may be amended only in writing signed by Lessee and Lessor or their respective successors in interest.

20.7 Reserved Rights. Lessor hereby reserves the right at any time and from time to time to make alterations or additions to existing buildings located on the Remaining Lessor Property and/or to construct or alter other buildings or improvements upon the Remaining Lessor Property, provided that such actions do not adversely impact Lessee's Operations or otherwise conflict or interfere with Lessee's rights hereunder.

20.8 Brokerage. Lessor and Lessee warrant to each other that no broker or agent was hired, engaged or consulted with regard to this transaction. Lessor and Lessee hereby agree to indemnify each other against any claim, action or suit for any fee or commission arising out of this transaction.

21. Professional Costs and Expenses. Except as otherwise set forth in Section 10 above, Lessor and Lessee shall each be responsible for the costs and expenses of their own respective legal and other professional consultants in connection with the transaction contemplated herein.

23. Certification Required Per MGL c. 62C, §49A. By entering this Lease, the duly authorized representative of Lessee certifies, under penalties of perjury, that Lessee has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

24. Disclosure Required of Lessee. Lessor and Lessee acknowledge that Lessee completed and submitted to Lessor a Disclosure of Beneficial Interests, pursuant to MGL c. 7C, § 38, attached as Exhibit 1C.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused their authorized representatives to execute this Lease on their behalf, on the dates set forth below.

LESSOR: Auburn Water District

By: _____
Name: Gregory Woods
Title: Superintendent

DATE: _____

LESSEE: [_____]

By: _____
Name: _____
Title: _____
DATE: _____

SCHEDULE OF EXHIBITS

Exhibit 1A: Plan Showing Remaining Lessor Property

Auburn Water District (AWD)

Satellite Image of Property Boundaries, Zone 1s and Potential Array Locations



Auburn Water District property boundaries are outlined in red, the two Zone 1 boundaries for AWD's two water supply wells are in yellow, and four potential locations for solar arrays are outlined in blue.

Exhibit 1B: Rent Schedule

Contract Year in Term	Annual Rent – East Parcel	Annual Rent – West Parcel	Contract Year in Term	Annual Rent – East Parcel	Annual Rent – West Parcel
1			17		
2			18		
3			19		
4			20		
5			21		
6			22		
7			23		
8			24		
9			25		
10			26		
11			27		
12			28		
13			29		
14			30		
15					
16					

Exhibit 1C: Form for Disclosure of Beneficial Interest in Real Property

This form contains a disclosure of the names and addresses of all persons with a direct or indirect beneficial interest in the real estate transaction described below. This form must be filed with the Massachusetts Division of Capital Asset Management and Maintenance, as required by MGL c. 7C, § 38, prior to the conveyance of or execution of a lease for the real property described below. Attach additional sheets if necessary.

1. Public agency involved in this transaction: Auburn Water District

2. Complete legal description of the Property:

A portion of the properties located at and known as _____ and adjacent properties, Auburn, MA, containing approximately _____ acres of land and being more fully described in _____

3. Type of transaction Sale Lease or rental for [_____] (_____) year term.

4. Seller(s) or Lessor(s): Auburn Water District

Purchaser(s) or Lessee(s):

5. Names and addresses of all persons who have or will have a direct or indirect beneficial interest in the real property described above. *Note: If a corporation has or will have a direct or indirect beneficial interest in the real property, the names of all stockholders must also be listed except that, if the stock of the corporation is listed for sale to the general public, the name of any person holding less than ten percent of the outstanding voting shares need not be disclosed.*

Name

Address

_____	_____
_____	_____
_____	_____
_____	_____

None of the persons listed in this section is an official elected to public office in the Commonwealth of Massachusetts except as noted below:

Name	Title or position
_____	_____
_____	_____

6. This section must be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency named in item 1. If this form is signed on behalf of a corporation, it must be signed by a duly authorized officer of that corporation.

The undersigned acknowledges that any changes or additions to item 4 of this form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Asset Management and Maintenance within 30 days following the change or addition.

The undersigned swears under the pains and penalties of perjury that this form is complete and accurate in all respects.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT A Certain Agreements for the Benefit of the Financing Parties

1. Lender Conditions. In order to finance the development and operation of the System, Seller may borrow money or otherwise seek investment from a Lender (as defined in this Agreement). Buyer acknowledges that Seller may finance the acquisition, development, installation, operation, and maintenance of the System with financing or other accommodations from one or more financial institutions and that Seller's obligations to the Lender may be secured by, among other collateral, a pledge or collateral assignment of this Agreement and a first priority security interest in the System (collectively, the "Security Interest"). In order to facilitate the necessary financing, Buyer consents to Seller's granting to the Lender the Security Interest.

Buyer acknowledges and agrees that: (i) Buyer and all of Buyer's rights under this Agreement are and will be subject and subordinate to the Security Interest (and as later modified by any and all renewals, modifications, supplement, amendments, consolidations, replacements, substitutions, additions, and extensions); and (ii) no amendment or modifications of this Agreement is permitted without the Lender's written consent.

2. Lender's Default Rights. If Seller defaults under the financing documents with the Lender, the following provisions apply:
 - A. The Lender, through its Security Interest, will be entitled to exercise any of Seller's rights and remedies under this Agreement. The Lender will also be entitled to exercise all rights and remedies of secured parties generally with respect to this Agreement and the System.
 - B. The Lender will have the right, but not the obligation, to pay all sums due from Seller under this Agreement and to perform any other act, duty, or obligation required of Seller, and to cure any default by Seller in the time and manner provided by the terms of this Agreement. Nothing requires the Lender to cure any default by Seller (a "Seller Default") under this Agreement, to perform any act, duty or obligation of Seller under this Agreement, unless the Lender has succeeded to Seller's rights under this Agreement, but Buyer hereby gives Lender the option to do so.
 - C. If the Lender exercises its remedies under the Security Interest, including any sale by the Lender, whether by judicial proceeding or under any power of sale, or any conveyance from Seller to Lender (or its assignee) in lieu of sale, the Lender will give Buyer notice of the transfer or assignment of this Agreement. If Lender exercises these remedies, it will not constitute a default under this Agreement, and will not require Buyer consent.
 - D. Upon any rejection or other termination of this Agreement under any process undertaken with respect to Seller under the United States Bankruptcy Code, Buyer agrees to enter into a new agreement with Lender or its assignee under substantially the same terms as this Agreement if Lender so requests within ninety (90) days of the termination or rejection of this Agreement.

- E. At Seller's request, Buyer agrees to execute and deliver to Lender and Seller such acknowledgment consent as may be required by Lender and in which Buyer acknowledges and confirms that the legal and beneficial ownership of the System remains in Seller, or its affiliate, and that the System is the property of Seller, or its affiliate.
3. Lender's Right to Cure. Regardless of any contrary terms in this Agreement:
- A. Buyer will not terminate or suspend this Agreement unless Buyer has given the Lender prior written notice of Buyer's intent to terminate or suspend this Agreement describing the event giving rise thereto, including any alleged Seller Default, and provide the Lender with the opportunity to cure any such Seller Default within sixty (60) days after such notice or any longer period provided for in this Agreement. If the Seller Default reasonably cannot be cured by the Lender within the period established under this Agreement, and the Lender commences and continuously pursues the cure of such Seller Default within that period, the period for cure will be extended for a reasonable period of time under the circumstances, but not to exceed an additional thirty (30) days. Seller's and Buyer's respective obligations will otherwise remain in effect during the cure period.
 - B. If the Lender or its lawful assignee (including any buyer or transferee) acquires title to or control of Seller's assets and within the applicable time period cures all defaults under this Agreement existing as of the date of such change in control in the manner required by this Agreement and which are capable of cure by a third party, then the Lender or such third party buyer or transferee will no longer be in default under this Agreement, and this Agreement will continue in full force and effect.
 - C. At the request of Lender and/or its assignee, Buyer agrees to execute and deliver any document, instrument, or statement (but not including any payment) required by law or otherwise as reasonably requested by Lender or its assignee in order to create, perfect, continue, or terminate the security interest in favor of Lender in all assets of Seller, and to secure the obligations evidenced by the Security Interest.

SCHEDULE 1: Description of System

System Site Location: [_____]

System Size: [_____] kW (AC) (representing an initial estimate, which may vary depending on the final design of the System)

Utility: National Grid

SCHEDULE 2: Annual Expected Production Output

Contract Year in Term	Annual Expected Performance Output	Contract Year in Term	Annual Expected Performance Output
1		14	
2		15	
3		16	
4		17	
5		18	
6		19	
7		20	
8			
9			
10			
11			
12			
13			