

Net Metering Credits
Nexamp Solar Installation on Mill Valley Road

Notes and Motion

The Town has already entered into a net metering credit agreement with Nexamp on a similar project on Mill Valley Road, and currently 70% of the Town's total electrical load is receives a 21% discount on the electrical portion of the energy bills for the next 20 years. The cumulative savings is expected to range from \$300,000 to \$600,000 for that period.

The first net metering credit agreement is governed by Solar Renewable Energy Certificate1 (SREC), a program who enrollment period has expired – the Town of Hadley was very fortunate to enroll.

Hadley entered five buildings in the SREC 1 program: Public Safety Complex, Water Treatment Plant, Sewer Treatment Plant, Elementary School, and Hopkins Academy.

The current agreement presented to the Board covers the remaining 30% of the Town's electrical load and would result in a savings of \$92,000. The discount is lower (16%) because the program is governed by SREC 2, which offers a lower discount rate.

The program would apply to all other electrical accounts, except North Hadley Village Hall.

Town counsel has reviewed this agreement, and has suggested changes, which have been incorporated of been resolved.

Recommended Motion:

Moved that the Board enter into a net metering credit agreement with Nexamp, and its successors, for the project on Mill Valley Road as presented.



Massachusetts Solar Net Metering Credit Opportunity

Prepared for: The Town of Hadley

Feb 2014 – Jan 2015 Costs

Account Type	Annual Costs
Library	3,462
Highway-Water	37,317
Selectmen	19,577
School	3,589
Sewer	29,958
Total	93,903

Hadley Savings

- 16% Fixed Discount over 20 Years w/ \$.0575 Floor.

Assumptions	
Annual Costs	\$93,000
85% of Costs	\$79,050
WMECO Rate	11 Cents/kWh
First Year Savings	\$12,648
Cumulative Savings (3% WMECO Inflation)	\$322,601

Detailed Savings Breakdown

Savings Calculations						
Estimated WMECO Inflation Rate						
Discount						
		3%		16%		
Year	Annual Production (kWh)	WMECO Rate (\$/kWh)	Annual Value of Credits	Purchase Price	Savings	
1	718,636	\$0.11	\$79,050	\$66,402	\$12,648	
2	715,043	\$0.11	\$81,014	\$68,052	\$12,962	
3	711,468	\$0.12	\$83,028	\$69,743	\$13,284	
4	707,911	\$0.12	\$85,091	\$71,476	\$13,615	
5	704,371	\$0.12	\$87,205	\$73,252	\$13,953	
6	700,849	\$0.13	\$89,372	\$75,073	\$14,300	
7	697,345	\$0.13	\$91,593	\$76,938	\$14,655	
8	693,858	\$0.14	\$93,869	\$78,850	\$15,019	
9	690,389	\$0.14	\$96,202	\$80,810	\$15,392	
10	686,937	\$0.14	\$98,593	\$82,818	\$15,775	
11	683,502	\$0.15	\$101,043	\$84,876	\$16,167	
12	680,085	\$0.15	\$103,554	\$86,985	\$16,569	
13	676,684	\$0.16	\$106,127	\$89,147	\$16,980	
14	673,301	\$0.16	\$108,764	\$91,362	\$17,402	
15	669,934	\$0.17	\$111,467	\$93,632	\$17,835	
16	666,585	\$0.17	\$114,237	\$95,959	\$18,278	
17	663,252	\$0.18	\$117,076	\$98,344	\$18,732	
18	659,936	\$0.18	\$119,985	\$100,787	\$19,198	
19	656,636	\$0.19	\$122,967	\$103,292	\$19,675	
20	653,353	\$0.19	\$126,022	\$105,859	\$20,164	
				Total Savings:	\$322,601	

Project Details

70 Mill Valley Road, Hadley MA

Size, Location	~2.4 MWdc
Program	MA SREC II
Interconnection	Executed Interconnection Service Agreement
Permitting	All approvals obtained
Timing (est)	Construction commencement in summer of 2015 with anticipated Commercial Operations Date in Q3 of 2015.
Percent Allocated to Town of Hadley	24% (half of the project will go to residents and homeowners)

The Bottom Line

I	Secures Long-Term Energy Cost Savings
II	Supports Local Sources of Renewable Energy
III	No Project Ownership Responsibility
IV	No Impact on Existing Supply Contracts
V	Simple, Zero Capital Cost Transaction

Contact Information

Contact Information

Joe Fiori
Energy Sales
c. 508.948.8060
e. jfiori@nexamp.com

Contact Information

Chris Clark
VP Business Development
c. 617.256.3805
e. cclark@nexamp.com

NET METERING CREDIT PURCHASE AND SALE AGREEMENT

This Net Metering Credit Purchase and Sale Agreement ("*Agreement*") is entered into as of [REDACTED] 2015 (the "*Effective Date*") by and between Hadley 2 Solar, LLC, a Delaware limited liability company ("*Seller*"), and Town of Hadley, a Massachusetts municipality ("*Buyer*"). In this Agreement, Seller and Buyer are sometimes referred to individually as a "*Party*" and collectively as the "*Parties*."

RECITALS

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

WHEREAS, Seller desires to sell and deliver to Buyer, and Buyer desires to purchase and receive from Seller, a portion of the Net Metering Credits associated with Energy generated by the Facility, but not the Environmental Attributes or Tax Attributes, during the Term, subject to the terms set forth in this Agreement.

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

ARTICLE I DEFINITIONS

1.1 When used in this Agreement, capitalized terms shall have the meanings given in the Glossary of Terms, attached hereto and incorporated herein, unless a different meaning is expressed or clearly indicated by the context. Words capitalized and defined in the Glossary of Terms shall be given their common and ordinary meanings when they appear in the Agreement without capitalization. Words not defined herein shall be given their common and ordinary meanings.

ARTICLE II TERM

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

2.2 Early Termination. This Agreement may be terminated without penalty prior to the Termination Date (the "*Early Termination Date*"):

- (a) by either Party, in accordance with Section 4.1 (relating to net metering), Section 4.3 (relating to termination as a consequence of regulatory change), or Section 8.2 (relating to termination as a consequence of Force Majeure);
- (b) pursuant to Section 10.3 (regarding financing); or

- (c) by Buyer if, on the Commercial Operations Date, the rate assigned by the LDC to the Meter under the LDC's rate tariff (i) results in a Net Metering Credit Value that is less than the Minimum Purchase Price shown in Exhibit A, or (ii) is not the "G-0" rate or better. For avoidance of doubt, a rate is deemed "better" than the G-0 rate if it results in a Net Metering Credit Value greater than that available at the G-0 rate.

Upon early termination of this Agreement in accordance with this Section 2.2, each Party shall discharge by performance all obligations due to the other Party that arose prior to the Early Termination Date and the Parties shall have no further obligations hereunder except those which survive expiration or termination of this Agreement in accordance with the terms hereof.

ARTICLE III TITLE; FACILITY OPERATION; METER

3.1 Title.

- (a) Seller shall retain title to the Facility, the Energy, the Environmental Attributes, Tax Attributes, generation capacity and ancillary services produced or associated with the Energy or the Facility, and to the amount of Net Metering Credits produced by the Facility beyond the Quantity. If Buyer is deemed to be the owner of any of the above, Buyer shall, subject to Applicable Laws, assign the same to Seller, and if Buyer receives any payments regarding the above, it shall turn such payments over to Seller, subject to Applicable Laws and, if required, Hadley Town Meeting vote of appropriation. This Section 3.1(a) shall survive the termination of this Agreement.
- (b) As between Seller and Buyer, title to, and risk of loss of, the Quantity will pass from Seller to Buyer upon allocation of the Quantity to Buyer's Recipient Account(s), as reflected on the Recipient Account Statements.

3.2 Notice of Commercial Operations Date. Subject to the provisions of this Agreement, Seller shall promptly notify Buyer in writing of the Commercial Operation Date.

3.3 Interconnection. Seller shall, as party to the Interconnection Agreement with the LDC, comply with the Interconnection Agreement and pay all costs associated therewith, including, without limitation, all costs of interconnection of the Facility to the LDC's electric distribution system.

3.4 Notice of Commercial Operation Date. Seller shall notify Buyer in writing of the Commercial Operation Date no later than ten (10) Business Days after the Facility has achieved Commercial Operations.

3.5 Development of Facility. Seller shall, at its sole cost and expense, cause the Facility to be designed, engineered, permitted, installed, constructed, operated and maintained ("Development") pursuant to good and prudent industry practice, Applicable Law, Governmental Approvals, the Interconnection Agreement, and applicable requirements of any Governmental Authority and LDC, and shall not take any action, or fail to take any action, that will render the Facility ineligible for the "G-0 rate or better" referenced in Section 2.2(c)(ii). Seller shall, during

the term of this Agreement, maintain all insurance for the Facility required by the Interconnection Agreement for the Facility. In addition to any other rights and remedies available to Buyer, Seller agrees to and shall indemnify, defend and save harmless Buyer from any and all Losses and other liabilities arising from the Development. This indemnification obligation shall survive the expiration or earlier termination of this Agreement.

ARTICLE IV NET METERING; REGULATORY CHANGE

- 4.1 Net Metering as Condition Precedent. Each Party's obligations under this Agreement are subject to the Facility's metered connection to the LDC qualifying for Net Metering as a Public Facility under the Public Cap, or as a Private Facility under the Private Cap, throughout the Term of this Agreement. If the Facility does not so qualify, either Party may, but shall not be obligated to, terminate this Agreement by delivery notice thereof to the other Party. If this Agreement is terminated pursuant to this Section 4.1, the termination shall be effective as of the delivery of such notice without further liability of the Parties to each other, provided that the Parties shall not be released from any payment or other obligations arising under this Agreement prior to any such termination.
- 4.2 Obligation to Modify Agreement Pursuant to Actions by Governmental Authority. Upon issuance, enactment and/or implementation of a Governmental Authority order, decision, or regulation after the Effective Date, or upon the administration or interpretation thereof by the DPU or the LDC occurring after the Effective Date, that (i) materially restricts Seller's ability to deliver Energy to the Facility's Host Customer (as defined by the Net Metering Regulations) or Net Metering Credits to Buyer, (ii) materially restricts Buyer's ability to receive and/or use Net Metering Credits, (iii) disallows the Facility's qualification as a Public Facility under the Public Cap (if applicable), or (iv) disallows Buyer's qualification as a Municipality or Other Governmental Entity under the Net Metering Regulations (if applicable), or (v) changes the components, value or method of determining the value of Net Metering Credits generated by the Facility in a manner adverse to Buyer, the Parties shall negotiate in good faith to amend this Agreement to conform to such rule(s) and/or regulation(s) to the greatest extent practicable and to restore the economic benefit to each Party and to do so in a timely fashion. If the Parties negotiating in good faith cannot agree on such an amendment, then either Party may, notwithstanding anything to the contrary in this Agreement, terminate this Agreement without penalty or liability, except for those obligations or liabilities that arose prior to termination.

ARTICLE V PURCHASE AND SALE OF NET METERING CREDITS

- 5.1 Sale and Purchase of Net Metering Credits. Commencing on the Commercial Operations Date and continuing throughout the Term,
- (a) Seller agrees to sell to Buyer, and Buyer agrees to purchase and accept from Seller all of Seller's and Host Customer's right, title and interest in and to the Net Metering Credits associated with the Energy generated by twenty four percent (24%) of the Facility's

nameplate capacity, as determined by the Meter (the "*Quantity*"), which Energy and Net Metering Credits Seller hereby represents and warrants shall be free and clear of all claims, liens, security interests, encumbrances of any kind, nature and description, provided that, notwithstanding the foregoing or anything to the contrary in this Agreement, Buyer shall not be required to pay for Net Metering Credits that have not been allocated to the Buyer's Recipient Accounts, and any payments so made shall be promptly reimbursed by Seller. Seller further represents and warrants that has or, at the time of sale to Buyer will have, the unrestricted right to sell the Quantity to Buyer.

- (b) If, during the Term, Buyer's electricity load is reduced such that it no longer can utilize the Net Metering Credits purchased under this Agreement, or Buyer otherwise elects in its sole discretion to do so, it may, with prior written consent of Seller which shall not be unreasonably withheld, conditioned, or delayed, transfer or sell such excess Net Metering Credits to a Municipality or another third party. Seller shall cooperate with and provide assistance to Buyer in amending the Schedule Z for the transfer of such excess Net Metering Credits. For avoidance of doubt, it shall be unreasonable for Seller to withhold consent where such sale or transfer will not adversely affect the status of the Facility as a Public Facility or as a Private Facility.

5.2 Price. The price that Buyer shall pay to Seller for the Quantity shall be as stated on Exhibit A, attached hereto (the "*Price*"). In addition to and not in limitation of any other rights of Buyer under this Agreement, the event that the Net Metering Credit Value falls below the Minimum Purchase Price shown in Exhibit A, Seller shall make all reasonable efforts to cause the Facility's Host Customer to effect a change in the applicable LDC rate class if such a change would result in a Net Metering Credit Value that is more advantageous to the Buyer.

5.3 Delivery.

- (a) To deliver the Net Metering Credits to Buyer, Seller shall deliver the Facility's Energy to the Meter pursuant to the Interconnection Agreement and shall be solely responsible to cause the Facility's Host Customer to allocate the Net Metering Credits purchased by Buyer under this Agreement to Buyer's Recipient Account(s) (through completion of a "Schedule Z", or such process as may be established by the Tariff).
- (b) Buyer may not change its allocation of Net Metering Credits (through requesting that Seller cause the Host Customer amend its Schedule Z or through some other process) without Seller's prior, written approval, which shall not be unreasonably withheld, conditioned or delayed. In the event of a change in allocation, Seller shall cause Host Customer to amend the Schedule Z, Seller shall prepare, and cause the Host Customer to file with the LDC, an amended Schedule Z if and to the extent such filing is permitted by the LDC.
- (c) Buyer understands that the Net Metering Credits delivered to Buyer in any particular month will be reflected on the Recipient Account Statement from the LDC as a

monetary credit amount and not as an electricity quantity; and that such credit will be reflected on the Recipient Account Statement according to the LDC's billing cycle, which may be up to approximately two (2) months after the Energy associated with the Net Metering Credits is generated by the Facility. However, notwithstanding anything to the contrary in this Agreement, Buyer shall not be responsible to pay Seller for any Net Metering Credits that have not been credited to Recipient Accounts by the LDC.

- (d) Seller will be solely responsible to correct or cause to be corrected, at its sole cost, any LDC allocation error if and to the extent such correction is permitted by the LDC, and Buyer agrees to reasonably cooperate in that regard in a timely manner.
- (e) Buyer acknowledges and agrees that Seller shall sell the balance of the Facility's Net Metering Credits to one or more other buyers, including, but not limited to, the Facility's Host Customer ("*Third Party Buyers*"). Seller agrees that Buyer shall not be required to enter into any contract with any Third Party Buyer. Seller shall indemnify, save harmless and defend Buyer and its officers, employees and agents from and against all Losses to the extent arising from or out of claims made by Third Party Buyers (including the Facility's Host Customer). This indemnification covenant shall survive the expiration or earlier termination of this Agreement.

5.4 Governmental Charges.

- (a) Seller is responsible for any and all Governmental Charges attributable to or arising out of the property on which the Facility is located, the Facility, the Energy and the Net Metering Credits corresponding thereto, and the sale of Energy or Net Metering Credits to the Host Customer, Buyer and any Third Party Buyer, irrespective of whether imposed before, upon or after the allocation and delivery of any Energy or Net Metering Credits to the Host Customer, Buyer or any Third Party Buyer.
- (b) Both Parties shall use reasonable efforts to administer this Agreement and implement its provisions so as to minimize Governmental Charges. In the event any of the sales of Net Metering Credits hereunder are to be exempted from or not subject to one or more Governmental Charges, the applicable Party shall, promptly upon the other Party's written request therefore, provide the applicable Party with all available documentation to evidence such exemption or exclusion.

ARTICLE VI PAYMENT

6.1 Payment.

- (a) Beginning with the first month that the Recipient Account Statement(s) reflects Net Metering Credits, Seller shall provide Buyer with an invoice (the "*Invoice*") for the value of the Quantity that is credited to Buyer's Recipient Account(s) according to the monthly Recipient Account Statement(s).
- (b) Subject to Section 6.3, Buyer shall remit payment of the full amount of each Invoice

to Seller or its designee by check, or if the Parties agree, by electronic funds transfer (or other means agreeable to both Parties) to the account designated by Seller within thirty (30) days following Buyer's receipt of each such Invoice. Any payment not made to Seller within thirty (30) days of the Buyer's receipt of an Invoice shall bear interest from the date on which such payment was required to have been made, through and including the date such payment is actually received by Seller. Such interest shall accrue at an annual rate equal to the Interest Rate.

- (c) Prior to the Commercial Operations Date, Buyer shall take all reasonable actions necessary to allow Seller to electronically access, for the Term, the Recipient Account Statement solely for purposes of fulfilling Seller's obligations under this Agreement. Seller shall pay all reasonable costs incurred by Buyer in providing Seller such access.
- (d) The Parties shall resolve any Invoice disputes according to Section 6.3 (Invoice Disputes).

6.2 Records and Audits.

- (a) Seller shall maintain accurate operating and other records and all other data for the purposes of proper administration of this Agreement.
- (b) Each Party shall keep, for a period of not less than two (2) years after the expiration or termination of any transaction, records sufficient to permit verification of the accuracy of billing statements, invoices, charges, computations and payments for such transaction and to permit verification of the Parties' compliance with this Agreement and verification of the Energy produced by the Facility. During such period each Party may, at its sole cost and expense, and upon reasonable notice to the other Party, examine the other Party's records pertaining to such transactions during the other Party's normal business hours.

6.3 Invoice Disputes. If a Party, in good faith, disputes an amount owed or paid as provided in this Agreement, the disputing Party shall promptly notify the other Party of the basis for the dispute and pay any undisputed portion of such Invoice no later than the due date. Upon resolution of the dispute, any required payment shall be made within seven (7) Business Days of such resolution. Any overpayments shall be returned by the receiving Party upon request or deducted from subsequent payments with interest accrued at the Interest Rate per annum at the option of the overpaying Party, subject, as to Buyer, to an appropriation of funds. The Parties shall only be entitled to dispute an amount owed or paid within twelve (12) calendar months from the date of issuance of such Invoice, unless the basis of the dispute was neither known nor reasonably knowable, in which event the dispute may be raised within 12 months from the date such Party knew or should have known of the dispute. If the Parties are unable to resolve a payment dispute under this Section, the Parties shall follow the procedure set forth in Article 11 (regarding dispute resolution).

6.4 Performance Reports. Within 30 days after every fifth (5th) anniversary of the Commercial Operations Date throughout the term of this Agreement, Seller shall provide to Buyer a detailed

written report in form and content reasonably satisfactory to the Buyer describing in text and charts or schedules, as appropriate, for the five year period, (i) the monthly performance of the Facility, (ii) the electricity production (in kWhs) and net metering credit output of the Facility, (iii) the monthly fluctuations in the Net Metering Credit Value, and (iv) the overall financial impact of the agreement to the Town of Hadley.

ARTICLE VII REPRESENTATIONS, WARRANTIES, COVENANTS

7.1 Each Party represents and warrants to the other Party as follows.

- (a) The Party is duly organized, validly existing, and in good standing under the laws of Massachusetts.
- (b) The Party has full legal capacity to enter into and perform this Agreement.
- (c) The execution of the Agreement has been duly authorized, and each person executing the Agreement on behalf of the Party has full authority to do so and to fully bind the Party.
- (d) It shall perform its obligations under this Agreement in compliance with Applicable Law.

7.2 Parties acknowledge that this Agreement and the transactions contemplated hereunder are intended to be a "forward contract" within the meaning of the United States Bankruptcy Code, and that Seller is intended to be a "forward merchant" within the meaning of the United States Bankruptcy Code. The Parties further acknowledge and agree that, for purposes of this Agreement, Seller is not deemed a "utility" as such term is used in Section 366 of the United States Bankruptcy Code, and Buyer agrees to waive and not to assert the applicability of the provisions of Section 366 in any bankruptcy proceeding wherein Buyer is a debtor-in-bankruptcy.

7.3 Buyer Representations and Covenants regarding Net Metering

- (a) To the extent that the Facility is qualified as a Public Facility, Buyer covenants that they shall not take any action inconsistent with the Facility's status as such except insofar as that action is authorized hereunder or in conformance with the provisions hereof.
- (b) Seller represents and warrants to Buyer that it shall construct, operate and maintain the Facility in a manner that will, throughout the term of this Agreement, qualify the Facility as a Public Facility or a Private Facility.

ARTICLE VIII TERMINATION; DEFAULT

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

- (a) The Party fails to make any material payment due under this Agreement within forty-five (45) days after receipt of an invoice unless the specific amount of the payment not made is being disputed.
- (b) The Party fails to perform or comply with any material covenant or agreement set forth in this Agreement and such failure continues for a period of thirty (30) days after receipt of written notice thereof from the other Party; provided, however, if the defaulting Party promptly commences and proceeds with due diligence during such thirty (30) day period to cure such breach and is unable by reason of the nature of the work involved using commercially reasonable efforts to cure the same within the said thirty (30) days, the defaulting Party's time to do so shall be extended by the time reasonably necessary to cure the same, not to exceed 180 days.
- (c) Fraud or intentional misrepresentation by the Party with respect to any of the covenants or agreements of this Agreement.
- (d) The Party becomes Bankrupt.

8.2 Force Majeure. Except as specifically provided herein, if by reason of *Force Majeure*, either Party is unable to carry out, either in whole or in part, any of its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, promptly after the occurrence of the *Force Majeure* event, gives the other Party hereto written notice describing the particulars of the occurrence and the anticipated period of delay; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the *Force Majeure* event; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use commercially reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. Notwithstanding the foregoing, (i) if a Force Majeure event as to Seller continues for more than 365 days, Buyer may terminate this Agreement without penalty or liability to Seller upon 30 days' written notice except for obligations that arose prior to the termination, except that Buyer may not terminate the Agreement if Seller agrees in a writing received by Buyer prior to the expiration of said 30-day notice period to pay the Lost Savings to Buyer in accordance with this Section 8.2 for the period of time, measured in calendar days, from the end of the aforesaid 365-day period through and including the date upon which the Force Majeure event terminates and Seller resumes all of its obligations under this Agreement ("the Lost Savings Period"). Seller shall pay the Lost Savings on a monthly basis. Buyer and Seller shall reasonably cooperate in determining the Lost Savings. For the avoidance of doubt, the Parties agree that to the extent a Force Majeure event results in Seller being unable to sell (i) any Net Metering Credits to Buyer or (ii) the full Quantity contemplated in Section 5.1(a), the Lost Savings shall be determined by multiplying the quantity of Net Metering Credits that would have otherwise been available for purchase by Buyer in the absence of the Force Majeure event by the difference between the Net Metering Credit Value during the Lost Savings Period and Price. Buyer shall provide a monthly invoice to Seller for the amount

due under this Section 8.2 for the Lost Savings incurred in the preceding month, and Seller shall pay that invoice amount within 30 days of receipt; and (ii) if a Force Majeure event as to Buyer continues for 365 days or more, Seller may terminate this Agreement upon 30 days' written notice without penalty or liability except for obligations that arose prior to the termination.

8.3 Termination for Default.

- (a) Upon the occurrence of an Event of Default, the non-defaulting Party at any time thereafter may give written notice to the defaulting Party specifying such Event of Default and such notice may state that this Agreement and the Term shall expire and terminate on a date specified in such notice, subject to the rights to cure of Section 8.1(b) for Events of Default described in that Section, and Section 10.2(a)(ii)(B), and upon any termination date specified in such notice, this Agreement shall terminate as though such date were the date originally set forth herein for the termination hereof.
- (b) If this Agreement is terminated due to an Event of Default, Seller shall have no further obligation to deliver, and Buyer shall have no further obligation to purchase, Net Metering Credits generated subsequent to such termination date.

ARTICLE IX REMEDIES; LIMITATION OF LIABILITY; WAIVER

- 9.1 Remedies. Subject to the limitations set forth in this Agreement, upon an Event of Default by Buyer, Seller may terminate this Agreement, sell Net Metering Credits produced by the Facility to persons other than Buyer, and pursue all remedies available at law or in equity. Subject to the limitations set forth in this Agreement, upon the Event of Default of Seller, Buyer may cease purchasing Net Metering Credits, terminate this Agreement, and pursue all remedies available at law or in equity. Each Party agrees that it has a duty to mitigate damages that it may incur as a result of the other Party's non-performance under this Agreement, provided that such duty shall not require Buyer to purchase replacement Net Metering Credits.
- 9.2 Limitation of Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY PUNITIVE DAMAGES OF ANY CHARACTER, RESULTING FROM, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY INCIDENT TO ANY ACT OR OMISSION OF EITHER PARTY RELATED TO THE PROVISIONS OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE (EXCEPT GROSS NEGLIGENCE, RECKLESSNESS OR WILLFUL MISCONDUCT), STRICT LIABILITY OR ANY OTHER THEORY AT LAW OR EQUITY, EXCEPT THAT THIS LIMITATION SHALL NOT APPLY TO CLAIMS OF INDEMNIFICATION FOR CLAIMS ASSERTED BY THIRD PARTIES, INCLUDING WITHOUT LIMITATION THE LDC, BUT ONLY TO THE EXTENT OF THE CLAIMS OF SUCH THIRD PARTIES.

9.3 Waivers.

- (a) No Implied Waivers – Remedies Cumulative. No covenant or agreement under this Agreement shall be deemed to have been waived by Seller or Buyer, unless such waiver shall be in writing and signed by the Party against whom it is to be enforced or such Party's agent. Consent or approval of Seller or Buyer to any act or matter must be in writing, shall apply only with respect to the particular act or matter in which such consent or approval is given, and shall not relieve the other Party from the obligation wherever required under this Agreement to obtain consent or approval for any other act or matter. The failure of Seller or Buyer to insist upon the strict performance of any one of the covenants or agreements of this Agreement or to exercise any right, remedy or election herein contained or permitted by law shall not constitute or be construed as a waiver or relinquishment for the future of such covenant or agreement, right, remedy or election, but the same shall continue and remain in full force and effect. Any right or remedy of Seller or Buyer herein specified or any other right or remedy that Seller or Buyer may have at law, in equity or otherwise upon breach of any covenant or agreement herein contained shall be a distinct, separate and cumulative right or remedy and no one of them, whether exercised or not, shall be deemed to be in exclusion of any other. Nothing in this Section is intended to waive or release a Party from its obligation at law to mitigate damages.
- (b) Acceptance of Payment. Neither receipt nor acceptance by Seller or Buyer of any payment due herein, nor payment of same by Buyer or Seller, shall be deemed to be a waiver of any default under the covenants or agreements of this Agreement, or of any right or defense that Seller or Buyer may be entitled to exercise hereunder.

ARTICLE X ASSIGNMENT

10.1 Prior Written Consent. Neither Party may assign, sell, transfer or in any other way convey its rights, duties or obligations under this Agreement, either in whole or in part, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that:

(a) without consent of Buyer, Seller

- (i) may assign its rights and obligations hereunder to an Affiliate of Seller provided that, by making any such assignment, Seller will have thereby represented and warranted to Buyer that as of the date of assignment the Affiliate has the financial ability and experience to perform all obligations under this Agreement.
- (ii) may sell or collaterally assign this Agreement to a Lender in accordance with Section 10.2.
- (iii) may sell all or substantially all of the assets to, or merge with, another person or entity, or effect a change of control of Seller, whether or not Seller is the

surviving entity from such action, provided that any such surviving entity assumes all obligations of Seller under this Agreement, and Seller reasonably demonstrates that, as of the date of assignment, the person or entity purchasing Seller's assets, or merging with or assuming control of Seller has the financial ability and experience to perform all obligations under this Agreement.

10.2 Collateral Assignment; Financing Provisions:

(a) Financing Arrangements. Seller may mortgage, pledge, grant security interests, assign, or otherwise encumber its interests in this Agreement to a Lender. Buyer acknowledges that in connection with such transactions Seller may secure Seller's obligations by, among other collateral, an assignment of this Agreement and a first security interest in the Facility. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any Lender, Buyer agrees as follows:

- (i) Consent to Collateral Assignment. Buyer hereby consents to both of the sale of the Facility to a Lender and the collateral assignment of the Seller's right, title and interest in and to this Agreement as security for financing associated with the Facility.
- (ii) Rights of Lender. Notwithstanding any contrary term of this Agreement:

(A) Step-In Rights. The Lender, if and as owner of the Facility, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Seller, any and all rights and remedies of Seller under this Agreement, provided it does so in accordance with and subject to the terms of this Agreement. The Lender shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Agreement and the Facility, provided such exercise complies with and is subject to the terms of this Agreement;

(B) Opportunity to Cure Default. The Lender shall 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 thereunder or cause to be cured any default of Seller thereunder where a cure is permitted in the Agreement, provided it does so in accordance with and subject to the terms of this Agreement. Nothing herein requires the Lender to cure any default of Seller under this Agreement or (unless the Lender has succeeded to Seller's interests under this Agreement) to perform any act, duty or obligation of Seller under this Agreement, but Buyer hereby gives it the option to do so; and

(C) Exercise of Remedies. Upon the exercise of remedies, including any sale of the Facility by the Lender, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Seller to the Lender (or any assignee of the Lender as defined below) in lieu thereof, the Lender shall give notice to Buyer of the transferee or assignee

of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement, though such exercise shall not, by itself, operate as a waiver or cure of any default committed by Seller and shall, in any event, be subject to the terms of this Agreement.

(iii) Right to Terminate with Notice to Lender. Buyer will not exercise any right to terminate or suspend this Agreement unless it shall have given the Lender a copy of the written notice of its intent to terminate or suspend this Agreement delivered to Seller under Section 8.3, provided that Buyer shall not be required to provide a copy of such notice to more than one Lender at more than one address at any point during the term of this Agreement, and provided further that notice of the identity and address of Lender has been provided to Buyer in accordance with Section 12.1. Seller shall in the same manner provide Lender with a copy of any notice received, or delivered to Buyer, by Seller under this Agreement.

(b) Lender a Third Party Beneficiary. Buyer agrees and acknowledges that Lender is a third party beneficiary of the provisions of this Section 10.2.

(c) Entry to Consent to Assignment. Buyer agrees, at Seller's expense, to execute any reasonable consents to assignment or acknowledgements of assignments requested by Seller or Lender. Buyer also agrees to provide, in a reasonably timely manner and at Seller's expense information within Buyer's possession reasonably requested by Seller for Seller's or Lender's counsel to issue opinions of counsel in connection with such financing or sale of the Facility and to cooperate with counsel in providing that information in a timely manner. The Parties shall reasonably cooperate to minimize the expenses incurred under this section.

10.3 Obligation to Modify Agreement Pursuant to Financing Requirements. If a Lender requires this Agreement to be modified as a condition to extending credit to Seller or providing commercially reasonable, market-based financing to Seller for or in connection with the Facility or in connection with a membership interest purchase of Seller, or if Seller, in good faith, requires the Agreement to be modified in order to finance the development, operation, maintenance, repair or removal of the Facility, the Parties shall in good faith and in a reasonably timely manner negotiate an amendment to this Agreement to reasonably conform to such requirements and to the original intent of this Agreement. If the Parties, negotiating in good faith, cannot agree on the amendments, either Party may terminate this Agreement, or, if Seller determines in good faith that the Agreement cannot be amended to allow the Facility to be financed, developed or operated in a commercially reasonable manner, then Seller may terminate the Agreement. The terminating Party shall give the other Party thirty (30) days prior written notice and this Agreement shall terminate without further liability of the Parties to each other, provided that the Parties shall not be released from any obligation arising under this Agreement prior to such termination. Under no circumstances will Buyer be required under this Section 10.3 to amend the Agreement to increase the Price paid by Buyer.

ARTICLE XI

DISPUTE RESOLUTION

- 11.1 Dispute Resolution. The Parties agree to use reasonable efforts to resolve any dispute(s) that may arise regarding this Agreement, provided that this Section shall not prevent or impede a Party from terminating this Agreement in accordance with any termination provision set forth in this Agreement, including the procedures set forth in Sections 8.1 and 8.3.
- (a) Negotiation. Any dispute that arises under or with respect to this Agreement shall in the first instance be the subject of informal negotiations between the chief executive of Seller, and the chief executive of Buyer, who shall use reasonable efforts to resolve such dispute. The dispute shall be considered to have arisen when one Party sends the other written notice that identifies with reasonable particularity the nature, and the acts(s) or omission(s) forming the basis of, the dispute. The period for informal negotiations shall not exceed fourteen (14) calendar days from the time the dispute arises, unless such 14-day period is modified by written agreement of the Parties.
 - (b) Mediation. In the event that the Parties cannot resolve a dispute by informal negotiations, the Parties involved in the dispute agree to submit the dispute to non-binding mediation. Within fourteen (14) days following the expiration of the time period for informal negotiations, the Parties involved in the dispute shall propose and agree upon a neutral and otherwise qualified mediator. The period within which mediation must commence and be completed shall be within sixty (60) days of the expiration of the period for informal negotiations, unless such time period is modified by written agreement of the Parties involved in the dispute. The decision to continue mediation shall be in the sole discretion of each Party involved in the dispute. The Parties will bear their own costs of the mediation. The mediator's fees shall be shared equally by all Parties involved in the dispute. Mediation shall not exceed one single eight-hour day, unless otherwise agreement in writing by the Parties. If a dispute is not resolved after mediation, either Party may pursue further recourse in the appropriate Massachusetts state court located in Hampshire County.
 - (c) Survival of Dispute Resolution Provisions. The provisions of this Section 11.1 shall survive any termination of this Agreement and shall apply (except as provided herein) to any disputes arising out of this Agreement.
 - (d) Equitable Relief. Notwithstanding anything to the contrary in this Section, either Party may proceed immediately to court to seek equitable relief for perceived irreparable harm.

ARTICLE XII MISCELLANEOUS

- 12.1 Notices. All notices and other formal communications which either Party may give to the other under or in connection with this Agreement shall be in writing (except where expressly provided for otherwise), shall be deemed delivered upon receipt (except that

notice provided by email shall be deemed delivered upon confirmation of receipt, of which auto-reply is insufficient), and shall be sent by any of the following methods: hand delivery; reputable overnight courier; certified mail, return receipt requested; or email transmission. The communications shall be sent to the following addresses:

If to Seller: Nexamp Markets, LLC
Liberty Square 3rd Floor
Boston, MA 02109
Attn: Net Metering Credit Manager

With a copy to: Joe Fiori
Email: jfiori@nexamp.com

If to Buyer: Town Administrator & Board of Selectmen
Hadley Town Hall
100 Middle Street
Hadley, MA 01035

With a copy to: Richard T. Holland, Esq.
Kopelman and Paige, P.C.
101 Arch Street, Floor 12
Boston, MA 02110
rholland@k-plaw.com

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

12.2 Severability. If any non-material part of this Agreement is held to be unenforceable, the rest of the Agreement will continue in effect. If a material provision is determined to be unenforceable and the Party which would have been benefited by the provision does not waive its unenforceability, then the Parties shall negotiate in good faith to amend the Agreement to restore to the Party that was the beneficiary of such unenforceable provision the benefits of such provision. If the Parties are unable to agree upon an amendment that restores the Parties' benefits, the matter shall be subject to Section 11 (regarding dispute resolution).

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

12.4 Entire Agreement. This Agreement, together with its exhibits, contains the entire agreement between Seller and Buyer with respect to the subject matter hereof, and supersedes all other understandings or agreements, both written and oral, between the Parties relating to the subject matter hereof.

12.5 Press Releases. The Parties shall reasonably cooperate with each other when making

public announcements of any kind or in any form related to the execution and existence of this Agreement, or the sale or purchase of Net Metering Credits.

- 12.6 No Joint Venture. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of Seller and Buyer hereunder are individual and neither collective nor joint in nature.
- 12.7 Amendments; Binding Effect. This Agreement may not be amended, changed, modified, or altered unless such amendment, change, modification, or alteration is in writing and signed by both of the Parties to this Agreement or their successor in interest. This Agreement inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.
- 12.8 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.
- 12.9 Further Assurances. From time to time and at any time at and after the execution of this Agreement, each Party shall, at the cost of the requesting Party, execute, acknowledge and deliver such reasonable documents and assurances, reasonably requested by the other and shall take such reasonable action consistent with the terms of the Agreement that may be reasonably requested by the other for the purpose of effecting or confirming any of the transactions contemplated by this Agreement. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section 12.9.
- 12.10 Good Faith. All rights, duties and obligations established by this Agreement shall be exercised in good faith and in a reasonable manner.
- 12.11 No Third-Party Beneficiaries. This Agreement is intended solely for the benefit of the Parties hereto. Except as expressly set forth in this Agreement, nothing in this Agreement shall be construed to create any duty to or standard of care with reference to, or any liability to, or any benefit for, any person not a Party to this Agreement.
- 12.12 Access to Records. Seller will make all books, accounts, data, records, reports, files and other papers relevant to the metering and billing under this Agreement available at all reasonable times for inspection, review and audit by the Buyer or its authorized representative.
- 12.13 Ownership of Documents. The parties agree that all documents created for the Buyer pursuant to this Agreement by the Seller shall belong to the Buyer and subject to the Massachusetts Public Records Law.
- 12.14 Additional Terms Regarding Buyer's Obligations. Notwithstanding anything to the contrary in this Agreement, including, but not limited to, Sections 10.2, 10.3 and 12.9:
- (a) Buyer shall not be required to execute documents or instruments subsequent to the execution of the Agreement that will materially or unreasonably increase Buyer's risk

or obligations under the Agreement, or result in the waiver of any of Buyer's rights or remedies under the Agreement or at law or in equity, or require Buyer to give a legal opinion, or make a statement of fact of which Buyer does not have actual knowledge.

- (b) Any requirement that Buyer cooperate or assist Seller shall not require Buyer to interfere with or influence the independent regulatory, licensing, taxing, permitting or judicial functions of any official, department, board, committee, body or commission of Buyer.
- (c) The Agreement shall be subject to Applicable Law.
- (d) Buyer does not waive any of the rights, remedies, defenses and immunities afforded Buyer, as a municipality, under G.L. c. 258, all of which rights, remedies, defenses and immunities Buyer hereby reserves.

12.15 M.G.L. c. 62C, § 49A Certification. Seller hereby certifies under penalties of perjury that it has complied with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support, all as stated under M.G.L. c. 62C, §49A.

[Signature page to follow.]

IN WITNESS WHEREOF, the Parties have executed this Net Metering Credit Purchase and Sale Agreement under seal as of the Effective Date.

BUYER

SELLER

Town of Hadley

Hadley 2 Solar, LLC

By: _____

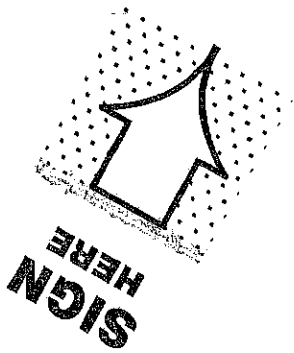
By: _____

Name: _____

Name: _____

Title: _____

Title: _____



Glossary of Terms

“Affiliate” means, as to any person or entity, any other person or entity which, directly or indirectly, is in control of, is controlled by, or is under common control with, such person or entity. For purposes of this definition, “control” of a person or entity means the power, directly or indirectly, to direct or cause the direction of the management and policies of such person or entity whether by contract or otherwise.

“Applicable Law” means any present and future law, act, rule, requirement, order, by-law, ordinance, regulation, judgment, decree, or injunction of or by any Governmental Authority, ordinary or extraordinary, foreseen or unforeseen, and all approvals, licenses, permits, and other governmental consents, which may at any time be applicable to a Party’s rights and obligations hereunder, including, without limitation, the construction, operation, and ownership of the Facility, as well as the selling and purchasing of Energy and Net Metering Credits therefrom.

“Bankrupt” means the Party is dissolved (other than pursuant to a consolidation, amalgamation or merger); makes a general assignment, arrangement or composition with or for the benefit of its creditors; or (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or is generally unable, to pay its debts as such debts become due; (C) commences a voluntary case under any bankruptcy law; (D) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (E) acquiesces in, or fails to contest in a timely manner, any petition filed against it in an involuntary case under bankruptcy law or seeking to dissolve it under other applicable law; or (F) takes any action authorizing its dissolution.

“Billing Period” shall mean as defined in the Net Metering Regulations.

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

“Buyer’s Recipient Account(s)” means the LDC accounts designated by Buyer and listed on the Schedule Z.

“Commercial Operations” shall occur for the Facility only when (i) Seller has obtained all necessary licenses, permits and approvals under Applicable Law for the installation and operation of the Facility, (ii) the Facility is ready and able to generate and supply electricity to the LDC’s electricity distribution system at full or substantially full capacity, (iii) all related facilities and rights, if any, have been completed or obtained to allow regular operation of the Facility, (iv) the Facility qualifies as a Public Facility or a Private Facility, and Seller has provided reasonable evidence of that qualification to Buyer in writing, and (v) the LDC has approved interconnection of the Facility with its electricity distribution system to allow regular operation of the Facility, and the Facility has been interconnected to that system.

“Commercial Operations Date” means the date on which the Facility achieves

Commercial Operations.

“Construction Commencement Date” means the date of commencement of site preparation or construction activities on the property upon which the Facility is located.

“Energy” means the amount of electricity generated over a period of time by the Facility, expressed in terms of kilowatt hour (“kWh”) or megawatt hour (“MWh”).

“Environmental Attribute” means Renewable Energy Certificates, carbon trading credits, emissions reductions credits, emissions allowances, green tags, Green-e certifications, or other entitlements, certificates, products, or valuations attributed to the Facility and its displacement of conventional energy generation, or any other entitlement pursuant to any federal, state, or local program applicable to renewable energy sources, whether legislative or regulatory in origin, as amended from time to time, and excluding, for the avoidance of doubt, any Tax Attributes, the Net Metering Credits, and any grant of funds or other benefits for which only a governmental entity is eligible under Applicable Law.

“Facility” or **“Facilities”** means the solar (PV) power electrical generation facility identified on Exhibit B, attached hereto and incorporated herein, together with all appurtenant facilities required to interconnect the Facility to the LDC’s electric distribution system.

“Force Majeure” means any cause not within the reasonable control of the affected Party which precludes that Party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God; high winds, hurricanes or tornados; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes not including the employees of Seller; lock-outs or other industrial disturbances not including the employees of Seller; acts of public enemies; acts, failures to act or orders of any kind of any Governmental Authority acting in its regulatory or judicial capacity; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances or explosions. Seller may not assert an event of *Force Majeure* to excuse it from performing due to any governmental act, failure to act, or order, where it was reasonably within such Seller’s power to prevent such act, failure to act, or order. Economic hardship of either Party shall not constitute an event of *Force Majeure*. Ordinary or foreseeable fluctuations in sunlight shall not constitute an event of *Force Majeure*.

“Governmental Authority” means any national, state or local government, or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, and the LDC.

“Governmental Charges” means all applicable federal, state and local taxes (including, without limitation, sales, use, gross receipts or similar taxes), governmental charges, emission allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, LDC, or other similar entity, on or with respect to the Energy, Net Metering Credits, the Facility, the property on which the Facility is located, and the purchase and sale of Energy or Net Metering Credits.

“Host Customer” means Seller and its respective successors and permitted assigns.

“Interconnection Agreement” means the interconnection services agreement entered into by Seller with the LDC for the Meter, which authorizes the Facility to interconnect with the local electric distribution system.

“Interest Rate” means a fluctuating interest rate per annum equal to the sum of (i) the Prime Rate as stated in the “Bonds, Rates & Yields” section of The Wall Street Journal on the Effective Date and thereafter on the first day of every calendar month, plus (ii) two percentage points. (In the event that such rate is no longer published in The Wall Street Journal or such publication is no longer published, the Interest Rate shall be set using a comparable index or interest rate mutually acceptable to both the Seller and Buyer.) The Interest Rate hereunder shall change on the first day of every calendar month. Interest shall be calculated daily on the basis of a year of three hundred sixty five (365) days and the actual number of days for which such interest is due.

“LDC” means the local electric distribution company.

“Lender” means the entity or person(s) providing financing to Seller in connection with the Facility. “Lender” shall not mean Seller’s trade creditors.

“Losses” means any and all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, interest, fines, fees, penalties, costs, and expenses (including all reasonable attorney’s fees and other costs and expenses incurred in defending any such claims or matters or in asserting or enforcing any indemnity obligation).

“Meter” means the meter furnished and installed by the LDC for the purpose of measuring the electricity delivered by the LDC to the Facility and delivered by the Facility to the LDC, and the Net Metering Credits generated by the Facility.

“Municipality(ies) or Other Governmental Entity(ies)” shall mean an entity or entities so designated by the Massachusetts Department of Public Utilities pursuant to the Net Metering Regulations.

“Net Metering Credits” means the monetary value of the excess electricity generated by a net metering facility, as currently stated as of the Effective Date under “Net Metering Credits” in the Tariff, and is calculated as of the Effective Date by the LDC according to 220 C.M.R. 18:04 and the Tariff §1.06, and excluding, for the avoidance of doubt, any Tax Attributes and Environmental Attributes.

“Net Metering Credit Value” means the monetary value assigned to a single Net Metering Credit according to the rate class assigned to the Meter by the LDC.

“Net Metering Facility of a Municipality or Other Governmental Entity” has the meaning set forth in the Net Metering Regulations.

“Net Metering” means the process of measuring the difference between the electricity delivered by the LDC to a net metering facility and the electricity generated by a net metering facility and fed back to the LDC, as set forth as of the Effective Date under the Net Metering

Regulations.

“Net Metering Regulations” means the Applicable Law as it applies to Net Metering. Specifically, that Applicable Law found as of the Effective Date at M.G.L. c. 164, §§138 – 143 and 220 C.M.R. §18.00, *et seq.*, as they may be amended from time to time, and including all regulatory agency orders pertaining thereto.

“Private Cap” means the LDC’s aggregate Net Metering capacity MW limit for Net Metering Facilities other than Net Metering Facilities of municipalities or other governmental entities, pursuant to M.G.L. c. 164, §139(f).

“Private Facility” means a Class II or III Net Metering Facility that qualifies for the Private Cap based on the Net Metering Regulations.

“Public Cap” means the LDC’s aggregate Net Metering capacity MW limit for all Public Facilities, pursuant to M.G.L. c. 164, §139(f).

“Public Facility” means a Net Metering Facility of a Municipality or Other Governmental Entity.

“Quantity” has the meaning set forth in Section 5.1.

“Recipient Account Statement(s)” means the LDC statement(s) which accompanies the Buyer’s Recipient Account(s).

“Renewable Energy Certificate” or ***“REC”*** means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a megawatt-hour (MWh) from a renewable energy source by a renewable energy project, and excluding, for the avoidance of doubt, any Tax Attributes and the Net Metering Credits.

“Tariff” means the LDC tariff for interconnection for distributed generation and net metering services, as approved by the Massachusetts Department of Public Utilities, together with any subsequent amendments and approvals thereto.

“Tax Attributes” means the investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of the Facility or the output generated by the Facility (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation), and excluding, for the avoidance of doubt, any Environmental Attributes and Net Metering Credits.

“Third Party Buyer” is defined in Section 5.3(e).

**EXHIBIT A
PRICE**

Commencing on the Commercial Operations Date and continuing thereafter for each year of the Term, the Price shall be an amount equal to the greater of (a) eighty four percent (84%) of the Net Metering Credit Value as determined under Net Metering Regulation §18:04(1) for that Billing Period (as defined in the Net Metering Regulations), or (b) \$0.0575/kWh, the Minimum Purchase Price.

<u>Delivery Year</u>	<u>Percent (%) Net Metering Credit Discount</u>	<u>Minimum Purchase Price (\$/kWh)</u>
1	16%	\$0.0575
2	16%	\$0.0575
3	16%	\$0.0575
4	16%	\$0.0575
5	16%	\$0.0575
6	16%	\$0.0575
7	16%	\$0.0575
8	16%	\$0.0575
9	16%	\$0.0575
10	16%	\$0.0575
11	16%	\$0.0575
12	16%	\$0.0575
13	16%	\$0.0575
14	16%	\$0.0575
15	16%	\$0.0575
16	16%	\$0.0575
17	16%	\$0.0575
18	16%	\$0.0575
19	16%	\$0.0575
20	16%	\$0.0575

EXHIBIT B
FACILITY DESCRIPTION(S)

A 1.95 MW (AC) solar photovoltaic array located on 41 South Maple Street in Hadley, MA. The Facility will be a ground mounted system with a design consisting of approximately 7,800 modules on approximately 10 acres and will use inverters to connect direct current (DC) electricity into AC electricity suitable for feeding in the electric grid, through an LDC metering device.