Consent 3/8/10 (#4)

Execution Version

original signature

COMMERCIAL POWER PURCHASE AGREEMENT

by and between

Nexamp Capital PUB 1, LLC

and

Town of Acton Highway Bldg

Dated February 4, 2010

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COMMERCIAL POWER PURCHASE AGREEMENT
COVER SHEET

This Power Purchase Agreement (consisting of this Cover Sheet, the Terms and Conditions, all Exhibits referenced herein and attached hereto, this "Agreement") is made and entered into as of the date set forth and between the parties listed below.

Party A, as seller: Nexamp Capital PUB 1, LLC, a Delaware limited liability company ("Nexamp")	Party B, as customer: Town of Acton, a municipal corporation of the Commonwealth of Massachusetts (the "Host")
Contact: c/o Nexamp, Inc. 21 High Street, Suite 209 North Andover, MA 01845 Attn: President and COO Phone: (978) 688-2700 Fax: (978) 416-2525	Contact: Town of Acton Town Manager 472 Main Street Acton, MA 01720 Phone: (978) 264.9612 Fax: (978) 264.9630 Host is a: ☐ For-profit business ☐ Not-for-profit entity x Governmental entity
Site Location: 14 Forest Road Acton, MA 01720 (See Exhibit A for more detail.)	System Descriptions: (See Exhibit C for more detail.) Panel Manufacturer: Evergreen Solar Capacity: 76.67kW DC Mounting: Roof Mounted with Panel Claw Inverter Manufacturer: Selectria Renewables
Pricing: Initial Nexamp kWh Rate: $.09 Escalation Percentage: 0% (See Exhibit B for more detail.)	Duration: Date of Agreement: February 4, 2010 ("Effective Date") Commercial Operation Date: TBD Term: Initial Term: 20 years from the System's Commercial Operation Date; with one 5 year Extension Term, subject to Applicable Law governing contract extensions.

Nexamp and Host shall each be referred to in this Agreement individually as a "Party" and, together, as "Parties".

RECITALS:

WHEREAS, Host owns and occupies the land, building and improvements located at 14 Forest Road in Acton, Massachusetts described in Exhibit A attached hereto (the "Site") and desires to purchase Solar Services for, among other things, delivery of electricity generated by the System to Delivery Point;

WHEREAS, Host desires that Nexamp install the System, to be located at the Site, and Nexamp is willing to perform the installation of the System; and

WHEREAS, Nexamp desires to sell, and Host desires to purchase, the Solar Services, consisting of the System's electricity production, the operation and maintenance of the System and other services to be provided in accordance with the terms and conditions set forth herein;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

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

Terms and Conditions
Exhibit A, Description of Site
Exhibit B, Nexamp kWh Rate
Exhibit C, Description of System
Exhibit D, Early Termination Price Schedule
Exhibit E, REC Purchase Option Pricing
Exhibit F, Guaranteed Production
Exhibit G, Nexamp Proposal and Amendment

2. This Agreement constitutes the entire agreement and understanding between Nexamp and Host with respect to the subject matter hereof and supersedes all prior agreements between them relating to the subject matter hereof, which are hereafter of no further force or effect. The Terms and Conditions and the Exhibits, and the Proposal submitted by Nexamp to the Town of Acton on or about September 14, 2009, as amended on or about September 29, 2009 (attached hereto as Exhibit G), referred to herein are integral parts hereof and are made a part of this Agreement by reference. In the event of a conflict between the provisions of this Agreement and those of any Exhibit or the Proposal, the provisions of this Agreement shall prevail over the terms of the Proposal or Exhibit and any Exhibit shall be corrected accordingly if inconsistent with this Agreement.

3. This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of Host and Nexamp; provided, that Nexamp may unilaterally amend Exhibit C to include the Final Drawings.

4. This Agreement shall be governed by, and construed and enforced in accordance with, the substantive laws of The Commonwealth of Massachusetts without reference to its principles of conflicts of laws.

5. The relationship between Nexamp and Host shall not be that of partners, agents, or joint venturers, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. Nexamp and Host, in performing any of their obligations hereunder, shall be independent contractors and shall discharge their contractual obligations at their own risk. Neither Party has the right to create an obligation for the other Party.

6. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. Facsimile transmission of executed copies or signature pages for this Agreement shall be legal, valid and binding execution and delivery for all purposes.

[Signatures, Terms and Conditions and Exhibits Follow.]

IN WITNESS WHEREOF, the duly authorized officers of the Parties have executed this Commercial Power Purchase Agreement as an instrument under seal as of the Effective Date.

Nexamp Capital PUB 1, LLC
a Delaware limited liability company

BY: NEXAMP CAPITAL, LLC
a Delaware limited liability company,
its Sole Member

By: NEXAMP, INC.,
a Delaware corporation,
its Sole Member

By: _____
Name: Daniel Leary
Title : President and COO

Town of Acton

By: _____
Name: Steve Ledoux
Title: Town Manager

IN WITNESS WHEREOF, the duly authorized officers of the Parties have executed this Commercial Power Purchase Agreement as an instrument under seal as of the Effective Date.

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its Sole Member

By: _____
Name: Daniel Leary
Title : President and COO

Town of Acton

By:_____
Name: Steve Ledoux
Title: Town Manager

COMMERCIAL POWER PURCHASE AGREEMENT
TERMS AND CONDITIONS
SECTION 1.DEFINITIONS.

"Affiliate" means any Person who, directly or indirectly controls, is under common control with, or is controlled by, another Person, whether directly or indirectly through one or more intermediaries. For the purposes of this definition, "control" and its derivatives mean, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or otherwise.

"Agreement" has the meaning set forth in the preamble.

"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, which may at any time be applicable to the Site, the License Area or the System, as applicable, or any part thereof or to any condition or use thereof.

"Approval" means any approval, license, permit, inspection, authorization or other consent, from a Governmental Authority or Local Distribution Company, which is or may be required for the performance of a Party's obligations or the exercise of Party's rights, as specified herein.

"Assign" and "Assignment" have the meanings set forth in Section 15.2.

"Billing Months" (individually, a "Billing Month") means the periods for which the Local Distribution Company bills the Host for the purchase of electricity; provided, that no period of time shall be considered a Billing Month hereunder unless such period occurs, or concludes, after the Commercial Operation Date of the first System installed under this Agreement.

"Claim" has the meaning set forth in Section 18.

"Commercial Operation Date" has the meaning set forth in Section 5.4(c).

"Completion Notice" has the meaning set forth in Section 5.4(b).

"Confidential Information" means all trade secrets and confidential or proprietary information owned, possessed or used by a Party hereunder (whether in written, oral, graphical, machine-readable or other form) that is disclosed to the other Party hereunder or to which the receiving Party has access, including all such information concerning the disclosing Party's present or future business plans and strategies, financial models, cost estimates and analyses, financial or legal structuring approaches, financing techniques, leasing or partnering arrangements, operations, commercial activities, customers, suppliers and business partners, products, research and development activities, and information of third parties that the disclosing Party has an obligation to keep confidential. Without limiting the foregoing, Confidential Information may include information concerning any approach, process, installation method, technique, design, activity, software, or test data. Notwithstanding any term of this definition, however, Confidential Information shall not include documents defined as public records and which are required to be or otherwise are disclosed under Applicable Law.

"Contract Year" means, each successive twelve-month period from each anniversary of the Commercial Operation Date of the first System to be installed under this Agreement to the next anniversary of the Commercial Operation Date; provided, that the first Contract Year will begin on the Commercial Operation Date of the first System installed under this Agreement and end on its first anniversary; for the avoidance of doubt, the second Contract Year will begin on the first anniversary of such Commercial Operation Date and end on its second anniversary.

"Decommissioning Assurance" means the sum of seven hundred fifty dollars ($750) delivered not later than fifteen (15) days after the Effective Date by Nexamp to Host in the form of a check to be deposited by Host into and held for the Term of this Agreement in an interest-bearing deposit account in the name of the Host.

"Delivery Point" means the agreed location or locations at the Site where the electricity generated by the System is to be delivered and received under this Agreement, as further set forth in Exhibit A attached hereto.

"Dispute" has the meaning set forth in Section 13.1.

"Early Termination" means a termination of this Agreement pursuant to Section 2.2, 2.3, 5.3 or Section 12 prior to the expiration of the Term.

"Early Termination Price" means, for the applicable Contract Year, either (i) the amount listed on Exhibit D attached hereto or (ii) the Fair Market Value of the System on an installed and running, or going-concern basis, as determined in accordance with Section 2.4, whichever amount is greater.

"EECBG Program" has the meaning set forth in Section 9.1(f).

"Effective Date" has the meaning set forth in the preamble.

"Environmental Attributes" means any offset, credit, benefit, reduction, rebate, financial incentive, tax credit and other beneficial allowance that is in effect as of the Effective Date or may come into effect in the future, including, to the extent applicable and without limitation, RECs, carbon credits, Green-e products, investment tax credits, production tax credits, forward capacity market credits or other credits earned by or in connection with, or otherwise attributable to, the System, or the electricity produced by the System, under or with respect to the Federal Clean Air Act (including, but not limited to, Title IV of the Clean Air Act Amendments of 1990), any state or federal renewable portfolio standard or renewable energy standard or other portfolio purchase mandate or requirement, including the renewable portfolio standard of the Commonwealth of Massachusetts, the Regional Greenhouse Gas Initiative or any statute or regulation implementing the foregoing, any federal or other applicable act or regulation relating to carbon emissions or a cap or other limitation thereupon or any other state, federal or other Governmental Authority act, law or regulation that provides offsets, credits, benefits, reductions, allowances or incentives of any kind or nature related to electricity generation, generation capacity or emissions (or the lack or avoidance thereof).

"Environmental Laws" means all federal, state, local and regional laws, statutes, ordinances, orders, rules and regulations relating to the protection of human health or the environment including, without limitation, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901 et seq., the Comprehensive Environmental Response Compensation and

Liability Act of 1980, 42 U.S.C. Section 9601 et seq., the Hazardous Materials Transportation Action, 49 U.S.C. Section 1804, et seq., the Safe Drinking Water Act, the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act, and any other applicable federal, state or local law now in force or hereafter enacted relating to waste disposal or environmental protection with respect to hazardous, toxic, or other substances generated, produced, leaked, released, spilled or disposed of at or from the Property, as any of the same may be amended or supplemented from time to time, and any regulation promulgated pursuant thereto.

"Environmental Violation" means (i) a violation or alleged violation of any Environmental Law in connection with the Site by any person or entity or other source whether related or unrelated to the Host; and (ii) the actual, threatened or alleged presence, release, transportation migration, generation, treatment, processing, storage, use or disposal of Hazardous Materials (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) at, on, or from the Site by any person or entity or other source, whether related or unrelated to the Host.

"Equipment Leasing Party" means any Person now or hereafter leasing the System or any portion thereof to Nexamp as part of a financing transaction entered into by Nexamp, including an equipment lease, financial lease, sale-leaseback or other leasing transaction.

"Expiration Date" has the meaning set forth in Section 2.1.

"Fair Market Value" has the meaning set forth in Section 2.4.

"Final Drawings" means the final stamped engineering drawings for the System, and the installation thereof at the Site, to be prepared by Nexamp at its sole cost and expense after the Effective Date, presented to and approved by Host acting reasonably and included in Exhibit C.

"Financing Party" or "Financing Parties" means any and all Persons or successors in interest thereof, directly or indirectly, (i) lending money, (ii) extending credit, (iii) investing equity capital or (iv) providing or financing any lease or other arrangement including tax equity investments for or in connection with any of the following: (a) the construction, term or permanent financing of the System; (b) working capital or other ordinary business requirements of the System (including the maintenance, repair, replacement or improvement of the System); (c) any development financing, bridge financing, credit support, credit enhancement or interest rate protection in connection with the System; or (d) the purchase of the System and the related rights. For avoidance of doubt, "Financing Party" shall include an Equipment Leasing Party, if any, any Person providing any of the foregoing categories of financing to Equipment Leasing Party with respect to the System.

"Force Majeure Event" means an event, occurrence or circumstance, or combination thereof, beyond the reasonable control of a Party which wholly or partly prevents or delays the performance of any obligation arising under this Agreement, including, but not limited to: (a) acts of God, terrorism, war, blockade, riot, civil disturbance or sabotage; (b) any effect of unusual natural elements, including fire, subsidence, earthquakes, floods, lightning, tornadoes, unusually severe storms, or similar cataclysmic occurrence or other unusual natural calamities; (c) environmental and other contamination at or affecting the Site, the License Area, the System or a Party's obligations hereunder; (d) explosion, accident or epidemic; and (e) general strikes, lockouts or other collective or industrial action by workers or employees, or other labor

difficulties; provided, that neither the lack of money nor changes in market conditions shall constitute a Force Majeure Event.

"Governmental Authority" means any federal, state, regional, county, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.

"Hazardous Materials" means without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous substances, toxic substances, pollutants, contaminants, radon, asbestos, lead or lead based paint, oil and petroleum produces and their by-products, polychlorinated biphenyls or related materials, and mold, dangerous fungi, bacterial or microbial matter contamination or pathogenic organisms that reproduce through the release of spores or the splitting of cells, as those terms may be used or defined in any Environmental Law.

"Host" has the meaning set forth in the preamble hereof.

"Host Default" has the meaning set forth in Section 12.2(a).

"Indemnitee" means, with respect to Host, a Person indemnified by Nexamp pursuant to Section 18.

"Installation Work" means the construction and installation of the System and the start-up, testing and acceptance (but not the operation and maintenance) thereof, substantially in accordance with this Agreement and Nexamp's Proposal, as amended, attached hereto as Exhibit G.

"Involuntary Bankruptcy Event" means, with respect to a Party, a proceeding or case is commenced against such Party without its application or consent in any court of competent jurisdiction seeking: (i) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of such Party under any bankruptcy law, and such proceeding or case shall continue undefended, or any order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of one hundred twenty (120) or more days.

"License Area" means those areas of the Site on which the System is installed pursuant to the license granted to Nexamp pursuant to Section 4.1, including all areas required for ingress and egress to and from, across, over and under such other portions of the Site, including up to but not including the Point of Delivery, as may be necessary for performance by Nexamp of its obligations with respect to the System under this Agreement.

"Liens" has the meaning set forth in Section 9.1(c).

"Local Distribution Company" means the local investor-owned electric distribution company that provides electric distribution service to the municipality in which the Host is located.

"M.G.L." means the Massachusetts General Laws, as amended from time to time.

"Meter" means a set of instruments meeting applicable electric industry standards installed by Nexamp to measure and record the volume and other relevant delivery characteristics of electrical energy produced by the System.

"Monthly Production" has the meaning set forth in Section 8.1.

"MTC" means the Massachusetts Technology Collaborative, a public instrumentality of the Commonwealth of Massachusetts, or its successor.

"MTC Obligations" shall have the meaning provided in Section 2.6.

"O&M Work" has the meaning set forth in Section 6.1.

"Persons" means any individual, corporation, partnership, company, joint venture, association, trust, unincorporated organization or Governmental Authority.

"Prepayment" has the meaning set forth in Section 7.6.

"RECs" means renewable energy credits.

"Resource Monitoring" means testing or other activities performed by Nexamp at the relevant locations on the Site to monitor and measure solar radiance at such locations.

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

"NEPOOL GIS" means the New England Power Pool Generation Information System, which includes a generation information database and certificate system, operated by NEPOOL, its designee or successor entity, that accounts for RECs and the underlying generation attributes of electricity consumed within, imported into or exported from NEPOOL.

"Nexamp" has the meaning set forth in the preamble.

"Nexamp Default" has the meaning set forth in Section 12.1(a).

"Nexamp kWh Rate" for the relevant Billing Month has the value provided in Exhibit B.

"Nexamp Services Payment" has the meaning set forth in Section 8.1.

"Site" has the meaning set forth in the recitals hereto.

"Solar Services" means all of the services provided by Nexamp to the Host under this Agreement, including provision of a web-based interface tracking system, generation and delivery of electricity from the System.

"System" means one or more integrated solar photovoltaic electricity generating system or System, up to but not including the Delivery Point, as described in overview form in Exhibit C attached hereto, and as will be described more specifically in the Final Drawings.

"System Acceptance Testing" has the meaning set forth in Section 5.4(a).

"System Requirements" has the meaning set forth in Section 5.4(a).

"Taxes" has the meaning set forth in Section 11.

"Term" has the meaning set forth in Section 2.1.

"Transfer of Title" has the meaning set forth in Section 2.3.

"Voluntary Bankruptcy Event" means, with respect to a Party, the occurrence of one or more of the following where such Party: (A) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property; (B) admits in writing its inability, or is generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against such Party in an involuntary case under any bankruptcy law; (G) takes any action for the purpose of effecting any of the foregoing.

SECTION 2.TERM; TERMINATION; SYSTEM PURCHASE OPTION; MTC

2.1 Term. The term of this Agreement (the "Term") shall commence on the Effective Date and, unless terminated earlier pursuant to an Early Termination, continue until the twentieth (20th) anniversary of the Commercial Operation Date of the first System installed under this Agreement (the ("Initial Term") and may be renewed for an additional five (5) year extension term through the twenty-fifth (25th) anniversary of the Commercial Operation Date of the first System installed under this Agreement (the "Extension Term") upon the mutual agreement of the parties not later than ninety (90) days before the end of the Initial Term; provided that the parties shall cooperate with one another sufficiently in advance to take such steps as may be necessary for the approval of such Extension Term in accordance with Applicable Law. The end of the Extension Term, and if not renewed, the end of the Initial Term shall be referred to as the "Expiration Date".

2.2 System Purchase Option; Termination for Convenience. Host may purchase the System and terminate this Agreement for convenience at any time after the sixth (6th) anniversary of the Commercial Operation Date of the System installed under this Agreement as set forth in Section 5.4(c) upon at least sixty (60) days' prior written notice to Nexamp; provided, that upon such termination Host shall pay Nexamp the applicable Early Termination Price. Prior to exercising its rights under this section, Host and its agents shall be permitted to inspect the System and all records relating to operation, maintenance and warranties applicable to the System. During the Term, Host shall only have five (5) options to purchase the System under this Section 2.2. Upon the payment of the Early Termination Price in accordance with this Section and execution and delivery by Nexamp to Host of a bill of sale for the System, (a) title to the System shall pass to Host, free and clear of any liens and encumbrances, and without warranties of any kind except as to title, (b) the remaining period on all third party warranties for the System, and the remaining term of all third party contracts regarding monitoring, operations and/or maintenance of the System, in each case to the extent transferable, will be transferred to Host (c) as between Nexamp and the Host, all right, title and interest in and to the Environmental Attributes related to the System arising on and after such date of payment shall accrue to the benefit of or vest in the Host or, if applicable, Nexamp shall assign to Host rights under any forward sale contract related to such Environmental Attributes as may be in effect as of the date of such payment, if any, but in any case Nexamp shall execute and deliver to Host such

documentation as may be commercially reasonable to effect such transfer or assignment and (d) this Agreement shall terminate automatically; provided, that, with respect to the System, the Host and the System shall remain subject to the MTC Obligations until the twentieth (20th) anniversary of the Commercial Operation Date of the System.

2.3 Termination Due To Transfer of Title by Host. If prior to end of the Term, Host sells, assigns or transfers, whether by operation of law or otherwise, all or any portion of its interest in the Site (a "Transfer of Title") without the prior written consent of Nexamp, which consent shall not be unreasonably withheld, then Host shall pay the Early Termination Price. Host hereby covenants to Nexamp that it will provide notice to Nexamp at least sixty (60) days prior to a Transfer of Title. Upon Host's payment of the Early Termination Price to Nexamp pursuant to this Section, which payment shall be made at least thirty (30) days prior to a Transfer of Title: (a) title to the System shall pass to Host, free and clear of any liens and encumbrances, and without warranties of any kind except as to title, (b) the remaining period on all third party warranties for the System, and the remaining term of all third party contracts regarding monitoring, operations and/or maintenance of the System, in each case to the extent transferable, will be transferred to Host, (c) as between Nexamp and the Host, all right, title and interest in and to the Environmental Attributes related to the System arising on and after such date of payment shall accrue to the benefit of or vest in the Host or, if applicable, Nexamp shall assign to Host rights under any forward sale contract related to such Environmental Attributes as may be in effect as of the date of such payment, if any, but in any case Nexamp shall execute and deliver to Host such documentation as may be commercially reasonable to effect such transfer or assignment and (d) this Agreement shall terminate; provided, that, with respect to the System, the Host and the System shall remain subject to the MTC Obligations until the twentieth (20th) anniversary of the Commercial Operation Date of the System.

2.4 Purchase Option Upon Expiration. Host may purchase the System on the Expiration Date, if the Agreement is still in effect on such date, at the System' fair market value on an installed and running, or going-concern basis, as determined pursuant to this Section (the "Fair Market Value"); provided, that there is no Host Default occurring at such time. Host shall provide written notice to Nexamp of Host's intent to exercise this purchase option, exercisable on the Expiration Date, not less than ninety (90) days prior to the Expiration Date (or else the option shall automatically expire). Prior to exercising its rights under this section, Host and its agents shall be permitted to inspect the System and all records relating to operation, maintenance and warranties applicable to the System. Upon Host's payment of the Fair Market Value to Nexamp pursuant to this Section and Nexamp's execution and delivery to Host of a bill of sale for the System: (a) title to the System shall pass to Host, free and clear of any liens and encumbrances, and without warranties of any kind except as to title, (b) the remaining period on all third party warranties for the System, to the extent transferable, will be transferred to Host, (c) as between Nexamp and the Host, all right, title and interest in and to the Environmental Attributes related to the System arising on and after such date of payment shall accrue to the benefit of or vest in the Host or, if applicable, Nexamp shall assign to Host rights under any forward sale contract related to such Environmental Attributes as may be in effect as of the date of such payment, if any, but in any case Nexamp shall execute and deliver to Host such documentation as may be commercially reasonable to effect such transfer or assignment, and (d) this Agreement shall terminate. If the Fair Market Value has not been paid to Nexamp by the Expiration Date, then Nexamp shall retain title to the System and remove them from the Site pursuant to Section 2.5. If the Fair Market Value has not been determined by the Expiration Date, the Term shall be automatically extended until the date thirty (30) days after such determination has been made, on which date payment of the Fair Market Value to Nexamp shall be due, unless Nexamp consents to a further extension, or

else Nexamp shall retain title to the System and remove the System from the Site pursuant to Section 2.5.

The Fair Market Value shall be determined by the mutual agreement of Host and Nexamp within ten (10) days of Host's provision of notice to Nexamp regarding its intent to exercise its purchase option pursuant to this Section (or pursuant to Section 2.2). If Host and Nexamp cannot agree upon the Fair Market Value, then Nexamp shall submit to the Host the names, qualifications and price proposals of at least three nationally recognized independent appraisers with experience and expertise in the solar electric power industry, and Host shall designate among such names the appraiser to value the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties. Host may elect, within ten (10) business days of the appraiser's determination of Fair Market Value, to withdraw its exercise of its purchase option pursuant to Section 2.2. In the case of Host's withdrawal of its election to purchase the System under Section 2.2, this Agreement will continue in full force and effect for the remainder of the Term. After Host withdraws its election to purchase the System under Section 2.2 for the fifth time, Host shall be deemed to have waived and forfeited in its entirety any further right to purchase the System under Section 2.2 for the remainder of the Term. Host may elect, within one hundred twenty (120) business days of the appraiser's determination of Fair Market Value, to withdraw its exercise of its purchase option pursuant to this Section 2.4. In the case of Host's withdrawal of its election to purchase the System under this Section 2.4, the terms of Section 2.5 shall apply. Subject to Host's right to withdraw its election to purchase the System as set forth in this Section 2.4, the valuation made by the appraiser shall be binding on the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally; provided that Host shall bear the cost of any appraisal in the event Host withdraws its election to purchase the System.

2.5 Removal of System at Expiration or Termination. Following an expiration or earlier termination of this Agreement according to its terms in which Host does not exercise its right to purchase the System pursuant to Section 2.4, Nexamp shall, at Nexamp's sole cost and expense, remove all of the tangible property comprising the System, including all structures built by Nexamp including, but not limited to, any fencing and/or barriers to secure the System and any System mounting and other support structures, from the Site in accordance with the terms of this Agreement on a mutually convenient date not later than sixty (60) days after such expiration or termination and shall return each License Area to the same condition as it was in on the Effective Date except for any reasonable use and wear or damage by casualty or eminent domain and Nexamp shall repair any damage it causes in connection with such removal not related to ordinary use and wear. Not later than sixty (60) days after Nexamp's removal of the System is completed, Host shall return to Nexamp the full amount of the Decommissioning Assurance, including any interest accrued thereon from the Effective Date. The provisions of this Section 2.5 and Host's covenants pursuant to Sections 4.1 and 9.2 shall survive expiration or termination of this Agreement until the actual removal of the System has been completed hereunder. If Nexamp fails to remove or commence substantial efforts to remove the System within sixty (60) days of the Expiration Date or of the date that the Agreement terminates pursuant to Section 12.2, Host has not purchased the System as permitted hereunder and the System is not operable, Host shall have right, at its option, to remove the System and restore each License Area to its original condition (other than ordinary wear and tear) and Nexamp shall reimburse Host for its reasonable out of pocket costs and expenses incurred by Host in removing and storing the System, and in restoring each License Area. If Nexamp fails to reimburse Host for such reasonable costs and expenses incurred in removing and storing the System within sixty (60) days of its completion of such removal and storage, Nexamp shall be deemed to have abandoned the System and Host shall

have the right to sell the System (and Nexamp hereby appoints Host as its agent for such purposes in such circumstances) for its scrap value and to retain the proceeds of such sale to the extent of Host's costs and expenses, with any excess proceeds to be delivered to Nexamp within sixty (60) days of such a sale. In addition, if Nexamp has so abandoned the System, Host shall be permitted to retain the full amount of the Decommissioning Assurance, including any interest accrued thereon from the Effective Date, as compensation for its costs and expenses incurred in connection with its removal, storage and sale of the System without any setoff against the amount it may recoup from sale proceeds. In its removal of the System, Nexamp shall employ due care in accordance with prudent solar industry practice and in accordance with Applicable Law and shall repair any damage caused by its activities in removing the System, absent ordinary use and wear. Nexamp shall leave each License Area in neat and clean order. Any removal of Nexamp's System by Nexamp shall be performed by a certified and licensed contractor and shall be completed without damage or destruction to any other equipment or structures within each License Area, absent ordinary wear and tear. Nexamp agrees to coordinate with Host for the removal of the System. Host may perform any necessary repairs to its roof at each License Area not performed by Nexamp necessary to remedy damage caused to a License Area by Nexamp in its removal of the System other than ordinary use and wear. Nexamp shall pay to Host its reasonable out of pocket costs in performing such repairs, which amounts shall be due within ten (10) days of delivery to Nexamp of a written itemized invoice evidencing such amounts.

2.6 MTC Obligations. Nexamp shall comply at all times with all MTC Obligations during System installation and thereafter for as long as it holds title to the System. If Host obtains title to the System hereunder pursuant to Section 2.2, 2.3 or Section 12, Host shall be obligated to MTC with respect to the System until the tenth (10th) anniversary of the Commercial Operation Date of the System as follows (collectively, the "MTC Obligations"):

(a) to repair and maintain the System in good operating condition;

(b) to keep the System connected to MTC's Production Tracking System;

(c) to honor the remaining term of all third party contracts regarding the sale of Environmental Attributes generated by or with respect to the System;

(d) to meet other reasonable requirements of MTC; and

(e) to notify MTC and Nexamp within three (3) business days of the failure to meet any of the foregoing requirements.

In the event that Host is in default under any of the MTC Obligations prior to the tenth (10th) anniversary of the Commercial Operation Date of the System, and such default is not cured after reasonable notice and opportunity to cure, title to the System shall revert to Nexamp, and this Agreement shall be automatically revived with respect to Host's covenants pursuant to Sections 4.1 and 9.2 to permit Nexamp to remove the System, except for System mounting and other support structures, at Host's expense; provided, that if Nexamp fails to remove or commence substantial efforts to remove the System within sixty (60) days of receiving notice in accordance with the terms hereof of Host's failure to meet the MTC Obligations, the rights of Nexamp pursuant to Sections 4.1 and 9.2 hereunder shall apply *mutatis mutandis* to MTC which shall have the option, but not the obligation, to remove the System at Host's expense. If neither Nexamp nor MTC remove or commence substantial efforts to remove the System within one hundred twenty (120) days of Nexamp's receiving notice in accordance with the terms hereof of Host's failure to

meet the MTC Obligations, Host shall have right, at its option, to remove the System to a public warehouse at Host's cost.

2.7 MTC as Third Party Beneficiary. The provisions of this Section 2 are for the benefit of MTC as well as the Parties hereto, and shall be enforceable by MTC as express third-party beneficiaries hereof. Host hereby agrees that neither MTC, nor any Person for whom it may act, shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Agreement on the part of Nexamp or shall have any obligation or liability to Host with respect to this Agreement.

SECTION 3. CONDITIONS PRECEDENT TO NEXAMP OBLIGATIONS.

Nexamp's obligations under this Agreement with respect to the System are subject to satisfaction of the following conditions:

3.1 Site and Resource Evaluation. Nexamp shall have determined prior to the Commercial Operation Date, in its sole discretion, that the Site and resource conditions thereon are adequate for installation of the System and for Nexamp to meet its financial return thresholds, and the thresholds of its Financing Parties, with respect to the System. Subject to Section 5.1, if upgrades to the roof are required prior to the Commercial Operation Date in the reasonable opinion of a professional engineer employed by or contracted for by Nexamp, such repairs shall be conducted at the sole cost of Host; provided, that Host may terminate this Agreement with respect to the Site at any time before the commencement of installation activities at the Site if Host determines, acting reasonable, that the cost of such upgrades are not justified by the benefits it anticipates from installation of the System at the Site or if it reasonably concludes that installation of the System would void the warranty for the roof at the applicable License Area, provided further that the Parties may agree to amend the System specifications sufficient to accommodate the roof structure without repair.

3.2 Financing. Nexamp, or its Financing Party, if applicable, shall have secured and received financing for the Installation Work in the amount of the aggregate development and construction costs related thereto.

3.3 Governmental Approvals; Confirmation of Availability of Government Subsidies. Nexamp and its Financing Party, if applicable, shall have received all governmental permits and approvals necessary to construct and operate the System and received confirmation of availability of the cash grant available under Section 1603 of the American Recovery and Reinvestment Act of 2008 and the rebate available from the Massachusetts Renewable Energy Trust pursuant to its Commonwealth Solar program.

3.4 INTENTIONALLY OMITTED.

3.5 Interconnection. Host and the Local Distribution Company shall have executed an interconnection agreement with respect to the operation of the System.

Any condition under this Section 3 may be waived, by written notice to Host, by Nexamp in Nexamp's sole discretion, without the consent of Host.

SECTION 4. LICENSE TO SITE.

4.1 License to Site. Host hereby grants to Nexamp pursuant to this Agreement, at no cost to Nexamp, subject to Applicable Law and the terms and conditions of this Agreement, the license to use, have access to, modify, store, install and maintain its equipment on the Site within the License Area in accordance with Exhibit C and the Final Drawings for the sole and exclusive purpose and as reasonably necessary to perform Resource Monitoring, the Installation Work, the O&M Work, all other activities in the performance or provision of its obligations hereunder and any activities necessary to remove the System pursuant to Section 2.5. This license includes, in accordance with the terms of this Agreement, the rights with prior notice to and coordination with Host to (a) ingress and egress to the License Area, (b) place monitoring equipment on the License Area to measure solar radiance on the roof and at other relevant locations at the License Area, if any, (c) place and maintain the System on the roof of one or more buildings located on the Site within the applicable License Area in accordance with the terms of this Agreement, (d) use other parts of the Site, including the roof(s) and utility rooms where the System is located, or is to be located, as may be reasonably necessary in performance under this Agreement (provided, however, that at all times the System shall remain the personal property of Nexamp and shall not be deemed a fixture or accession nor shall the Host have any title to, or interest in, the System, unless title to the System has been transferred pursuant to Section 2.2, 2.3 or 2.4), (e) subject to the supervision of Town personnel, have access to and modify, as necessary, electrical panels and conduits to interconnect the System with the Site electrical wiring, and (f) have access to other necessary utilities, such as elevators and restrooms (as necessary), for Nexamp and its employees, contractors and sub-contractors, and Local Distribution Company personnel, all as reasonably necessary. The license to Nexamp provided hereunder shall include the right to provide a similar license to its, and its Financing Parties', employees, contractors, sub-contractors and other agents. Host shall use commercially reasonable efforts to provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the Installation Work, and access for rigging and material handling. Host shall also provide Nexamp a reasonable area for construction laydown. Except with the prior written consent of the Host, Nexamp shall not use the License Area or the Site for any use other than the foregoing. Nexamp shall at all times (a) keep the License Area in good order and condition, (b) dispose of all trash and debris incident to the Installation Work and operations and maintenance work, (c) provide temporary protection of the property of the Host in the License Area and adjacent areas of the Site during the Installation Work, including protection of roofing, finished surfaces, floors and equipment, (d) adhere to reasonable safety and security procedures and directions of the Host with respect to the Site, (e) place loads on the structure in such manner and degree as conforms to the engineering evaluations specified in Section 5.1, and (f) minimize to the extent practicable interference with the occupancy of and activities conducted at the Site by the Town, its employees and agents.

4.2 Title to Site. Host has good and clear record and marketable fee simple title to the Site free from all Liens.

4.3 Access to License Area by Host . Host reserves the right at all times and upon reasonable notice to Nexamp (except in the case of an emergency) to enter the License Area for any reason, including but not limited to: (a) inspect it; (b) show the License Area to prospective purchasers, tenants or licensees, or to prospective mortgagees, ground or underlying lessors or insurers; (c) post notices of non-responsibility; or (d) without disturbing the System in any fashion, alter, improve or repair the License Area or any building on the Site, or for structural alterations, repairs or improvements to the Site's System and equipment other than the System itself. Any entry into the License Area by Host shall not be deemed to be a forcible or unlawful entry into, or a detainer of, the License Area, or an entry in violation of this Agreement.

SECTION 5. MONITORING, INSTALLATION AND TESTING OF THE SYSTEM.

5.1 Scope of Installation Work. Nexamp shall furnish all labor, materials and equipment to perform the Installation Work, all in accordance with Applicable Law, applicable vendors' and manufacturers' warranties, instructions and specifications, and applicable insurance requirements. Nexamp will cause the System to be designed, engineered, installed and constructed in accordance with the Final Drawings, Applicable Law and the terms of this Agreement. Nexamp shall perform the Installation Work in accordance with a good and workmanlike manner using only new materials and without causing material damage to any roof on the Site. Host shall have the right to review all engineering evaluations of the impact of the System on the structural integrity and strength of the roof(s) of the License Area and to approve all construction plans for the System, which approval shall not be unreasonably withheld, delayed or conditioned. Host shall respond to Nexamp within ten (10) days of any request for approval hereunder. Host's failure to respond shall be deemed to be an approval. If Host does not consent to Nexamp's request for approval, Host shall describe in reasonable detail the basis upon which it is denying such approval. After completion of the Installation Work, Nexamp shall not modify the System in a manner contradictory to the Final Drawings applicable to the System without the consent of Host, which consent shall not be unreasonably withheld, conditioned or delayed. During the Term of this Agreement, Nexamp shall comply with obligations imposed on an "Installer" under the Commonwealth Solar Initiative.

5.2 Performance of Installation Work. Nexamp may perform Installation Work at the Site between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, unless otherwise limited by local ordinance, and shall seek to do so in reasonable coordination with the Host and in a manner which limits inconvenience to and interference with Host's and Host's invitees' and employees' use of the Site as is commercially practical. Nexamp shall grant Host and its authorized representatives access to and the right, but not the obligation, to observe the Installation Work at all times provided that neither Host nor its authorized representatives shall interfere with the Installation Work or use or move any Nexamp equipment or any System without written authorization from Nexamp. As requested by Nexamp for performance of the Installation Work, Host shall provide blueprints of the Site and relevant facilities thereon, available roof load data and engineering diagrams of the Site as available to Host.

5.3 Utility Interconnection. Nexamp agrees to manage application for all necessary approvals and permits from any Governmental Authority and the Local Distribution Company, including the submission of applications for interconnection of the System with the Local Distribution Company; provided, that Host agrees to cooperate with Nexamp in preparing such applications and securing such approvals by, among other things, providing Nexamp with required data and electrical drawings concerning the Site necessary for the interconnection application process. Should the Local Distribution Company fail to approve the interconnection of the System within one hundred twenty (120) days of submission, Nexamp may terminate this Agreement with respect to the System promptly by providing a written termination notice to Host. Should the Local Distribution Company require equipment in addition to that shown in Exhibit C, Nexamp may either terminate this Agreement or increase the Nexamp kWh Rate, in either case by providing written notice to Host. Host may elect, within ten (10) days of receipt of notice from Nexamp increasing the Nexamp kWh Rate, to terminate the Agreement with respect to the System by providing written notice to Nexamp to that effect.

5.4 System Acceptance Test.

(a) Nexamp shall, at no cost to Host, test the System (with respect to the System, a "System Acceptance Test") to confirm that the System (i) is capable of delivering Solar Services in accordance with the operational requirements that Nexamp shall develop and provide to Host (the "System Requirements") and (ii) meets all requirements established by the Local Distribution Company and any Applicable Law. Nexamp shall notify Host not less than three (3) days prior to the conducting of System Acceptance Test and Host shall have the right, but not the obligation, to be present at and observe the System Acceptance Test, at no cost to Nexamp.

(b) If the results of the System Acceptance Test indicate that the System is capable of delivering electricity generated by the System to Host for four (4) continuous hours using such instruments and meters as have been installed for such purposes and the System has been approved for interconnected operation by the Local Distribution Company, then Nexamp shall send a written notice to that effect to Host (a "Completion Notice"), accompanied by a copy of the results of the System Acceptance Test.

(c) The "Commercial Operation Date" of the System shall be the tenth (10th) day after the date of Host's receipt of a Completion Notice for the System.

SECTION 6. OPERATION AND MAINTENANCE WORK.

6.1 O&M Work. In connection with its delivery of the Solar Services, Nexamp shall, at its sole cost and expense and in accordance with Applicable Law, provide operation, repair, monitoring and maintenance services to the System during the Term, including continuous remote monitoring of the System, an annual site visit and physical inspection of the System and maintenance of the System and the metering equipment determining the quantity of electricity produced by the System (collectively, the "O&M Work"). Nexamp shall perform the O&M Work in accordance with the Final Drawings, Applicable Law and such other prudent solar industry practices in a manner intended to limit inconvenience to and interference with Host's and Host's invitees'and employees' use of the Site to the extent commercially practical. All maintenance work shall be performed by licensed contractors.

6.2 Malfunctions.

(a) Host and Nexamp each shall notify the other within twenty-four (24) hours following its discovery of any material malfunction in the operation of the System (a "Malfunction"), including any interruption in the supply of Solar Services. Nexamp and Host each shall notify the other Party upon the discovery of an emergency condition in the System. If an emergency condition exists, Nexamp shall promptly dispatch the appropriate personnel to perform the necessary repairs or corrective action in an expeditious and safe manner. Nexamp shall designate personnel and establish procedures such that Host may provide notice of such conditions requiring Nexamp's repair at all times, twenty-four (24) hours per day, including weekends and holidays.

(b) Nexamp shall commence repairs to a Malfunction and restore the supply of Solar Services as soon as reasonably possible after any notice received from Host thereof or upon its own discovery of any such Malfunction; provided, that Nexamp shall not have the obligation to repair any Malfunction caused by a casualty loss to the License Area, including a casualty loss caused by theft or vandalism, unless insurance proceeds available to Nexamp for such purpose are sufficient to repair such a Malfunction (it being

acknowledged by Host that under certain circumstances Nexamp's Financing Parties, if any, may have discretion to determine whether Nexamp may apply such insurance proceeds to such repair work).

(c) Nothing in Section 6.2 shall bar the Host or its employees or agents from taking any measure, although not obligated to do so, where immediate action is reasonably necessary, to prevent or mitigate an imminent risk of injury or harm to person or property on account of an emergency condition or hazard.

(d) Nexamp shall further provide to Host a manual or such other documentation for the System that includes recommendations or instructions for the proper emergency shutdown of the System.

6.3 Metering.

(a) Maintenance and Testing. Nexamp shall install and maintain the Meter for the System at its sole cost and expense. Nexamp shall maintain the calibration and operation of the Meter for the measurement of the electricity generated by the System and delivered to Host and, if applicable, for the calculations necessary to calculate the reduction in demand charges attributable to the System. Upon Host's written request based on its reasonable assertion that the Meter is functioning incorrectly and submitted not more frequently than annually, Nexamp shall test the Meter at its sole cost furnish a copy of metering and testing data for the System produced by the Meter. In addition, promptly following a written request from Host for a special test and calibration of the Meter, Nexamp shall cause a mutually acceptable qualified party to test the Meter in the presence of representatives of each Party, a report of which will be given to each Party. If Host requests such a test, Host shall bear the cost of testing, unless the Meter so tested is shown to be in error by more than one percent (1%), in which event Nexamp shall bear the cost of testing.

(b) Adjustments. If testing of the Meter pursuant to Section 6.3(a) indicates that the Meter is in error by more than one percent (1%), then Nexamp shall promptly repair or replace the Meter. Nexamp shall make a corresponding adjustment to the records of the amount of Solar Services delivered based on such test results for: (i) the actual period of time when such error caused inaccurate Meter recordings, if that period can be determined to the mutual satisfaction of the Parties, or (ii) if such period cannot be so determined, then a period equal to one-half of the period from the later of the date of the last previous test confirming accurate metering or the date the relevant Meter(s) was/were placed into service, but not to exceed two (2) years.

6.4 Title to System. Except as otherwise set forth herein and subject to Host's rights to purchase the System as provided in this Agreement, Nexamp or one of its Financing Parties, if applicable, shall continue to hold title to, and be the legal and beneficial owner of, the System and the System shall: (a) remain the personal property of Nexamp or Nexamp's, successors, assigns or Financing Parties, (b) not attach to or be deemed a part of the real estate or fixture to the License Area or any other portion of the Site, (c) at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code and (d) be subject to removal by Nexamp at the expiration or earlier termination of this Agreement unless purchased by Host as provided in Section 2.4.

SECTION 7. PURCHASE OF SOLAR SERVICES.

7.1 Purchase Requirement. Host agrees to purchase one hundred percent (100%) of the electricity produced by the System during the Term of this Agreement. The payment for Solar Services is calculated to include all of the above services in the Nexamp kWh Rate. Host agrees that, during the Term, Host will not select an electricity generation supplier under competitive procurement or otherwise, if any other option exists, that requires, as a condition for service, (a) removal or discontinued operation of the System, (b) imposition of additional charges on Nexamp or (c) the purchase from such provider of all electricity requirements for the Site, or with respect to the account of the Local Distribution Company for the Site. Host acknowledges that Nexamp is not, and that the provision of Solar Services hereunder shall not cause Nexamp to become, an electric utility, a generation company, an aggregator or supplier, an energy marketer or energy broker, as such terms are defined in the M.G.L.

7.2 Title to Net Metering Credits. As between Host and Nexamp, Host shall be entitled to receive any and all credits from the Local Distribution Company for electricity generated by the System and delivered to the Local Distribution Company.

7.3 Title to Environmental Attributes. Subject only to the Host's option pursuant to Section 7.4 to purchase from Nexamp RECs associated with generation of electricity from the System, and its acquisition of the System under Sections 2.2 to 2.4:

(a) As between Host and Nexamp, (a) all Environmental Attributes relating to the System or the sale of electricity therefrom will be and remain property of Nexamp, (b) Nexamp shall have all right, title and interest in and to any and all Environmental Attributes that relate to the electricity generated by the System during the Term, and (c) Host shall have no right, title or interest in or to any such Environmental Attributes.

(b) Host shall not report or otherwise communicate to any Person that any Environmental Attribute relating to the electricity generated by the System belong to any Person other than Nexamp.

(c) At Nexamp's request and expense, Host shall execute all such documents and instruments reasonably necessary or desirable to effect or evidence Nexamp's right, title and interest in and to the Environmental Attributes relating to the electricity generated by the System. If the standards used to qualify the Environmental Attributes to which Nexamp is entitled hereunder are changed or modified, Host shall at Nexamp's request and expense use all commercially reasonable efforts to cause the Environmental Attributes to comply with new standards as changed or modified.

7.4 Host Option to Purchase RECs. Nexamp hereby grants Host the option to purchase RECs associated with the generation of electricity by the System during the Term of this Agreement, pursuant to the terms of this Section 7.4. At any time on or before the date that is eighteen (18) months after the Effective Date, Host may notify Nexamp in writing of its exercise of its option to purchase all of the RECs associated with the generation of electricity by the System during the remainder of the Term following the date of Host's delivery of such written notice. Within sixty (60) days of Nexamp's receipt of such written notice, Nexamp will deliver to Host documentation sufficient to effect the forward sale to Host of RECs associated with the actual electric generation of the System on a unit contingent basis for the remainder of the Term of this Agreement, with such pricing and as set forth on Exhibit F and with no other representations or warranties except as to title. Nexamp and Host agree to cooperate with one

another in exchanging information and establishing such accounts as may be necessary or commercially advisable to conform to the rules of NEPOOL or any Governmental Authority as applied to RECs and accounting for transactions in RECs and, to the extent practicable, to use the NEPOOL GIS system in connection with transactions for such RECs.

7.5 System' Production Guaranty. Nexamp hereby guarantees to Host that the actual aggregate production in kWh from the System for each of the four-Contract Year periods set forth on Exhibit G will meet or exceed the predicted aggregate production amount set forth for such group of four Contract Years. Within thirty (30) days of the end of each applicable four Contract Year period set forth on Exhibit G, Nexamp shall, at its sole option, either pay to Host or apply as a credit to Host's next twelve (12) monthly statements in equal portions, a dollar amount for each kWh of shortfall in production equal to the product of the amount set forth in the column labeled "Avoided Cost" on Exhibit G applicable to such four Contract Year Period multiplied by the positive difference in kWh, if any, between the actual aggregate production of the System during such four Contract Year period subtracted from the predicted aggregate production during such four Contract Year period. In any four-Contract Year period during which Host has elected to repair or replace the roof at the License Area and Nexamp has temporarily disassembled or removed the System in accordance with Section 9.1(e), any production shortfall shall be reduced by the estimated amount of kWh that would have been produced on each day in which production was curtailed on account thereof, such estimate to be based on available production and solar radiation data available for such days from solar photovoltaic System located not more than one hundred (100) miles from the System.

7.6 Prepayments for Solar Services. If at any time during the Term, Host receives funding under the EECBG Program, Host shall pay to Nexamp the entirety of such amount as it may receive (the "Prepayment") as a pre-payment of the Nexamp kWh Rate to be charged to Host for Solar Services produced in Contract Years or portions thereof during the Term after the date of receipt by Host of such EECBG Program. Nexamp shall hold such Prepayment in an interest bearing account. In consideration of the Prepayment, Nexamp shall apply that portion of the Prepayment, as necessary to pay the full amount of each invoice for Solar Services delivered during the Term after the Prepayment is made until the Prepayment, including all interest incurred thereon, is applied in full. After the Prepayment has been applied in full to invoices under this Agreement, Host will recommence making payments for Solar Services as contemplated under this Agreement. Nexamp shall continue to deliver statements to Host after receipt of the Prepayment to evidence its proper application of the Prepayment. Nexamp shall apply, as a credit against the purchase price due from Host in connection with its exercise of its option to purchase the System under Section 2.2 or Section 2.5, any portion of the Prepayment which at the time of payment of the purchase price for the System, has not been applied at the Nexamp kWh rate as a credit against amounts due from Host for Solar Services. If any amount of the Prepayment remains unapplied at the end of the Term of this Agreement and Host has not exercised its option under Section 2.5 to purchase the System, Nexamp shall refund to Host such unapplied portion of the Prepayment.

SECTION 8. PRICE AND PAYMENT.

8.1 Payment Amount. Host shall make a payment to Nexamp for the Solar Services provided hereunder (the "Nexamp Services Payment") with respect to each Billing Month of the Term; provided, that if the first Billing Month hereunder ends within ten (10) days of the Commercial Operation Date of the System, the Payment for such Month shall be included in the Nexamp Services Payment for the following Month. The Nexamp Services Payment for any Billing Month shall equal the product of (a) the total electricity produced by the System in the

relevant Billing Month as determined in good faith by Nexamp on or shortly after the last day of such Billing Month from recordings produced by the Meters for the System (the "Monthly Production") and (b) the Nexamp kWh Rate for the relevant Month (as specified in Exhibit B attached hereto). Except as may be otherwise expressly provided in this Agreement, no other fees or charges shall be due from Host to Nexamp for the Installation Work or any of the Solar Services.

8.2 Timing and Method of Payment. No later than the tenth (10th) day of each Billing Month of the Term after the first full or partial Billing Month: (a) Nexamp shall deliver to Host an invoice showing (i) the amount of the Monthly Production for the previous Billing Month and Nexamp's computation of the Nexamp Services Payment in respect thereof and (ii), if Host has elected to purchase RECs on a unit contingent forward basis pursuant to Section 7.4, an amount equal to the product of the Monthly Production multiplied by the amount set forth on Exhibit F per kWh of Monthly Production and (b) not more than forty-five (45) days after receipt of such invoice, Host shall pay to Nexamp, by wire transfer of immediately available funds to an account specified in writing by Nexamp or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice. All payments which are not paid when due shall bear interest accruing from the date initially due until paid in full at a rate equal to the lesser of: (x) the rate per annum equal to the rate published as the prime rate in the *Wall Street Journal* plus two percent (2%) and (y) the maximum rate allowed under Applicable Law. All payments made to Nexamp hereunder shall be non-refundable, shall be made, to the extent permitted under Applicable Law, free and clear of any tax, levy, assessment, duties or other charges and amounts not disputed pursuant to Section 8.3 shall not be subject to reduction, withholding, set-off, or adjustment of any kind.

8.3 Payment Disputes. If a Dispute arises with respect to any invoice submitted by, or any payment owed to, Nexamp hereunder, the Parties shall attempt to resolve such Dispute amicably. If the Parties cannot resolve the Dispute within thirty (30) days, either Party may submit the Dispute to arbitration in accordance with Section 13; provided, that during the time a bona fide Dispute is pending the disputing Party shall not be deemed in default under this Agreement and the Parties may not suspend the performance of their respective obligations hereunder, including payment of undisputed amounts owed hereunder. Neither party may withhold, deduct or set-off against amounts or credits owed by such party to the other party any undisputed amounts during the time that a Dispute is pending.

SECTION 9. GENERAL COVENANTS.

9.1 Nexamp's Covenants. As a material inducement to Host's execution and delivery of this Agreement, Nexamp covenants and agrees to the following:

(a) Permits and Approvals. Nexamp shall use commercially reasonable efforts to secure and maintain all Approvals from relevant Governmental Authorities and Local Distribution Company, and other agreements and consents necessary to enable Nexamp to perform its obligations hereunder; provided, that Host shall cooperate with Nexamp in the foregoing and provide Nexamp with all necessary information and assistance reasonably required (including data concerning the Site). At Host's request, Nexamp shall deliver copies of all Approvals obtained in accordance with this Section 9.1(a) to Host.

(b) Health and Safety. In performing its obligations hereunder, Nexamp shall comply in all material respects with all Applicable Law pertaining to the safety of

persons and property and Nexamp's work. Nexamp shall promptly report to Host any death, lost time injury, or property damage to Host's property that occurs on the License Area.

(c) Removal of Liens. Nexamp shall not cause or create any mortgage, pledge, lien (including mechanics', labor or materialmen's lien), charge, security interest, encumbrance or claim of any nature ("Liens") on the Site or any interest therein, other than those created hereunder or otherwise on the System; provided, that the foregoing shall not preclude Nexamp, without approval of Host, from encumbering (by security, charge or otherwise) its or a Financing Party's interest in the System on the License Area or otherwise. Nexamp shall also pay, before a fine or penalty may attach to the License Area, any taxes, charges or fees of whatever type of any relevant Governmental Authority, relating to any work performed hereunder by Nexamp or its agents and subcontractors on the License Area. If Nexamp breaches its obligations under this Section 9.1(c), it shall immediately notify Host in writing, shall promptly cause such Lien to be discharged and released of record without cost to Host, and shall defend and indemnify Host against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

(d) Damage and Destruction to the Site; Renovations. In the event the Site or any part thereof is damaged or destroyed, Host may elect to repair, rebuild, or restore the Site or any part thereof, to substantially the same condition as it was immediately prior to such damage or destruction. If Host so chooses to repair, restore or rebuild the Site, Nexamp may, but shall not have the obligation to repair, restore or rebuild the System if insurance proceeds available to Nexamp for such purpose are insufficient to cover the costs of such repair, restoration or reconstruction or if Nexamp's Financing Parties determine in their sole discretion not to apply such insurance proceeds to such work.

(e) Roof Repair. In the event that Host determines in its reasonable discretion that it must replace or repair the roof at the Site, Nexamp shall, if requested by Host, temporarily disassemble and remove within a commercially reasonable amount of time all or such portions of the System as may be necessary to accommodate such roof repairs or replacement and shall, after completion of such repairs or replacement, reinstall all or such portions of the System as may have been temporarily removed. Within thirty (30) days of Nexamp's delivery of an invoice for such disassembly, removal and / or reinstallation services, Host shall pay to Nexamp the amount invoiced, which shall be charged on a time and materials basis, plus five percent (5%), documentation of which shall be supplied with such invoice. Host shall provide at its sole cost and expense storage space and security meeting Nexamp's reasonable approval for any portion of the System disassembled or removed pursuant to this Section 9.1(e). During such time as the System is partially or completely disconnected, Host's obligation to pay for Solar Services shall be abated for the period during which all or part of the System as may be temporarily removed or uninstalled pursuant to this Section 9.1(e). Nexamp agrees to reinstall the System in a manner that will not void the warranty of the new roof as repaired or installed. In no event shall Host, or an agent, subcontractor or other party or Affiliate of Host, move, repair, disassemble or otherwise work on the System. In no event shall the System be partially or completely disassembled under this Section 9.1(e) for longer than one period of not more than sixty (60) consecutive days during the Term. Nexamp shall bear the cost of roof repair or replacement to the extent it causes damage to the roof within the License Area as a direct result of its acts or omissions to act and replacement or repair of the roof at the License Area is required therefor.

(f) EECBG Program. Nexamp shall use its commercially reasonable efforts to cooperate with and assist Host in submitting information and applications that may be required for the Host to participate in the Energy Efficiency and Conservation Block Grant Program administered by the Commonwealth of Massachusetts' Department of Energy Resources (the "EECBG Program").

(g) Decommissioning Assurance. Nexamp shall deliver to Host a check for the full amount of the Decommissioning Assurance not later than fifteen (15) days after the Effective Date.

9.2 Host's Covenants. As a material inducement to Nexamp's execution and delivery of the Agreement, Host covenants and agrees as follows:

(a) Compliance with Applicable Laws. Host shall at all times comply with all Applicable Laws in connection with the System, the relevant areas of the applicable License Area, and their respective maintenance and operation, including such Laws pertaining to the health and safety of persons and property.

(b) Security. Host shall provide and take reasonable measures, including commercially reasonable monitoring of the Site's alarms, for security of the System and to protect the System against loss, theft, damage and vandalism.

(c) Access to Site, License Areas and System. Host shall make available regular access to the License Area and the System in order to allow Nexamp to perform the Installation Work and the O&M Work and to allow MTC, upon prior notice, with reasonable access to the License Area and the System.

(d) Non-Interference with System. Subject only to Section 6.2, Host shall not touch, disturb, move, otherwise physically interfere with or do anything else on the Site or the License Area which would interfere with, and shall use commercially reasonable efforts to prevent any person, including its employees and other agents, contractors, invitees, licensees and guests, from touching, disturbing, moving, or otherwise physically interfering with or doing anything else on the Site or the License Area which would interfere with, the System in any way without the prior written consent of Nexamp, such consent not to be unreasonably withheld or delayed.

(e) Notice of Damage. Host shall promptly notify Nexamp of any matters of which it is aware pertaining to any damage to or loss of the use of the System or that could reasonably be expected to affect the System adversely.

(f) Solar Radiation; Site Plan. Host shall not take any action, directly or indirectly, including erecting any buildings or structures that would reduce the amount of solar radiation reaching the System and shall adhere to the landscaping requirements of the Site plans included in Exhibit A attached hereto, if any. Furthermore, Host shall use its best efforts to prevent buildings, structures or flora, including buildings, structures or flora not on the Site or owned or controlled by Host, from overshadowing or otherwise blocking the System's access to sunlight.

(g) Liens. Host shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the System or any interest therein (other

than Liens created by, through or under Nexamp). If Host breaches its obligations under this Section, it shall immediately notify Nexamp in writing, shall promptly cause such Lien to be discharged and released of record without cost to Nexamp, and shall indemnify Nexamp against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

(h) Consents and Approvals. Host shall secure and maintain, and shall deliver to Nexamp copies of, all Approvals relating to the performance of Host's obligations and the rights granted by Host hereunder, and which are required by the terms, conditions or provisions of any restriction or any agreement or instrument to which Host is a party or by which Host is bound. Host shall also provide reasonable assistance to Nexamp in completing applications for approvals and consents with respect to which Nexamp has primary responsibility, including interconnection with the Local Distribution Company.

(i) Actions Regarding Subsidies. Host, at the sole cost and expense of Nexamp, shall take whatever actions are reasonably necessary or requested by Nexamp, including completing and executing documentation, in order for the System and/or the production thereof to comply with or qualify for any state and federal government subsidies.

(j) Intranet Connection. Host shall provide Nexamp at all times free of charge, subject to supervision of Host employees: (i) the right to connect equipment for monitoring the System and its production to Host's intranet and/or internet networks so as to allow Nexamp, or its subcontractors, to monitor remotely the System and its production, and (ii) a working Ethernet connection to an intranet and/or internet network in the area of Host's electrical equipment with bypass of firewalls or right to locate a datalogger within firewalls.

(k) Cooperation Regarding Financing Statements; Notice of Lease. Host shall execute all financing statements, notices and other filings that Nexamp reasonably requests to perfect, maintain or otherwise protect Nexamp's or its Financing Parties rights in the System.

(l) Decommissioning Assurance. Not later than thirty (30) days after the Effective Date, Host shall deposit and maintain on deposit for the full Term of this Agreement, the full amount of the Decommissioning Assurance into an interest-bearing deposit account at a bank located in the Commonwealth of Massachusetts. Host shall provide to Nexamp the account number of such deposit account and shall provide current statements to Nexamp not later than sixty (60) days after its request for such statements.

SECTION 10. REPRESENTATIONS AND WARRANTIES.

10.1 Representations and Warranties Relating to Agreement Validity. In addition to any other representations and warranties contained in this Agreement, each Party represents and warrants to the other as of the Effective Date that:

(a) it is duly organized and validly existing and in good standing in the jurisdiction of its organization and is qualified to do business in the Commonwealth of Massachusetts;

(b) it has the full right and authority to enter into, execute, deliver, and perform its obligations under this Agreement;

(c) it has taken all requisite corporate or other action to authorize and approve the execution, delivery, and performance of this Agreement;

(d) this Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms;

(e) to the best of its knowledge, there is no litigation, action, proceeding or investigation pending or threatened on any basis before any court or other Governmental Authority by, against, affecting or involving any of its business or assets (including with respect to Host, the Site, the License Area or any interest therein) that would affect its ability to carry out the transactions contemplated herein; and

(f) its execution of, and performance under, this Agreement shall not violate existing Applicable Law or any agreement to which it is a party.

10.2 Requisite Standards. Nexamp represents and warrants that it has, or has access to, the requisite expertise and sufficient personnel and resources (including necessary supervision and support services) to deliver the Solar Services. Nexamp guarantees and warrants to Host that the Installation Work, O&M Work and the delivery of Solar Services pursuant to this Agreement will comply in all material respects with all Applicable Laws.

10.3 EXCLUSION OF WARRANTIES. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE INSTALLATION WORK AND SOLAR SERVICES PROVIDED BY NEXAMP TO HOST PURSUANT TO THIS AGREEMENT SHALL BE "AS-IS WHERE-IS." NO OTHER WARRANTY TO HOST OR ANY OTHER PERSON, WHETHER EXPRESS, IMPLIED OR STATUTORY, IS MADE, WHETHER AS TO THE INSTALLATION, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE SYSTEM, OR ANY SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH ARE EXPRESSLY DISCLAIMED BY NEXAMP.

10.4 Additional Host Representation. Host represents and warrants to Nexamp that as of the date of this Agreement no Environmental Violation exists at the Site.

SECTION 11. TAXES AND GOVERNMENTAL FEES.

Nexamp shall pay all documented taxes, fees or charges imposed on, or assessed or charged to Nexamp by any Governmental Authority and which arise out of or relate to Nexamp's ownership of the System or sale of the Solar Services to Host, including such taxes, fees or charges based on the value, construction, operation or existence of the System at the License Area (collectively, "Taxes"). Without limiting the generality of the foregoing, Taxes shall include sales taxes, personal property taxes, use, gross receipts, excise, transfer ad valorem taxes and franchise fees. Nexamp shall pay all such Taxes when they are due and before any fine, penalty, interest or cost may be added for non-payment.

SECTION 12. DEFAULT AND EARLY TERMINATION.

12.1 Nexamp Defaults and Host Remedies.

(a) Nexamp Defaults. The following events shall be defaults of Nexamp (each, a "Nexamp Default"):

(i) A Voluntary Bankruptcy Event with respect to Nexamp;

(ii) An Involuntary Bankruptcy Event with respect to Nexamp;

(iii) Nexamp breaches any material term of this Agreement and such breach remains uncured for sixty (60) days after Host's notice to Nexamp of such breach, if curable within sixty (60) days, or Nexamp fails to commence and pursue diligently a cure to such breach within sixty (60) days of receiving such notice if a longer cure period is needed, , and, in any event, fails to cure within ninety (90) days of receiving such notice; and

(iv) With respect to the System individually, Nexamp fails to achieve the Commercial Operation Date of the System on or before the date that the System becomes ineligible for the rebate applied for under the Commonwealth Solar Program administered by the MTC.

(b) Host's Remedies. Upon the occurrence of any Nexamp Default and during its continuation beyond any applicable cure periods, Host may exercise one or more of the following remedies:

(i) terminate this Agreement immediately upon a Nexamp Default pursuant to Section 12.1(a)(i) or (ii) and with at least fifteen (15) days' written notice upon a Nexamp Default pursuant to Section 12.1(a)(iii) or (iv);

(ii) cease making Nexamp Services Payments hereunder other than accrued and unpaid amounts for the period prior to termination;

(iii) coincident with its delivery of a notice of termination with respect to a Nexamp Default under Section 12.1(a)(iii), elect to acquire and take control and custody of the System at no cost; and

(iv) exercise any other remedy it may have at law or equity or under this Agreement, subject to the provisions of Section 13.

Notwithstanding the foregoing, in the case of a Nexamp Default, Host shall provide the Financing Parties (if any) with notice of such Nexamp Default in accordance with the provisions of Section 16.3 and the Financing Parties, as applicable, shall have the right (but not the obligation) for ninety (90) days after receipt of such notice either to cure the Nexamp Default on behalf of Nexamp, or, upon payment to Host of amounts due from Nexamp but not paid by Nexamp or upon performance of obligations of Nexamp hereunder but not performed by Nexamp, to assume, or cause their designee to assume, all of the rights and obligations of Nexamp under this Agreement arising after the date of such assumption; provided that such Financing Party shall have the financial capacity to and comparable experience in operating and maintaining photovoltaic System similar to the System. In the event that any Financing Parties, as applicable, or a designee thereof, assumes this Agreement: (i) Nexamp shall be released and discharged from

any obligations to Host arising or accruing hereunder from and after the date of such assumption to the extent the assignee assumes the obligations of Nexamp under this Agreement; (ii) Host shall continue this Agreement with such Financing Parties, as applicable, or a designee thereof, as the case may be, substituted in the place of Nexamp hereunder; and (iii) if the assuming party is the Financing Party such party shall not be personally liable to Host for the performance of its obligations hereunder except to the extent of the interest of the Financing Parties, as applicable, in the System.

(c) Actions to Prevent Injury. If any Nexamp Default creates an imminent risk of damage or injury to any Person or any Person's property, then in any such case, in addition to any other right or remedy that Host may have, Host may (but shall not be obligated to) take such action as Host deems appropriate to prevent such damage or injury. Such action may include, but is not limited to, disconnecting and removing all or a portion of the System.

12.2 Host Defaults and Nexamp's Remedies.

(a) Host Default. The following events shall be defaults of Host (each, a "Host Default"):

(i) A Voluntary Bankruptcy Event with respect to Host;

(ii) An Involuntary Bankruptcy Event with respect to Host;

(iii) Host breaches any material term of this Agreement, other than a provision of Section 17, and such breach remains uncured for sixty (60) days after Nexamp's notice to Host of such breach, if curable within sixty (60) days, or Host fails to commence and pursue diligently a cure to such breach within sixty (60) days of receiving such notice, if a longer cure period is needed, and, in any event, fails to cure within ninety (90) days of receiving such notice;

(iv) Host fails to pay Nexamp any amount due Nexamp hereunder within thirty (30) days from the date due;

(b) Nexamp's Remedies. Upon the occurrence of any Host Default and during its continuation, Nexamp may exercise one or more of the following remedies:

(i) terminate this Agreement;

(ii) suspend the provision of all Solar Services hereunder, including the O&M Work;

(iii) remove the System from Host's premises in compliance with the conditions of Section 2.5;

(iv) [INTENTIONALLY OMITTED]; and / or

(v) exercise any other remedy it may have at law or equity or under this Agreement, subject to the provisions of Section 13.

(c) Actions to Prevent Injury. If any Host Default creates an imminent risk of damage or injury to any Person or any Person's property, then in any such case, in addition to any other right or remedy that Nexamp may have, Nexamp may (but shall not be obligated to) take such action as Nexamp deems appropriate to prevent such damage or injury. Such action may include, but is not limited to, disconnecting and removing all or a portion of the System in accordance with the same standards that apply under Section 2.5 or suspending the supply of Solar Services to Host.

12.3 Termination in Consequence of Force Majeure Event.

(a) If a Force Majeure Event shall have occurred that has materially affected Nexamp's performance of its obligations to provide the Solar Services hereunder and shall have continued for a period of at least one hundred twenty (120) days, then Host shall be entitled to terminate this Agreement upon thirty (30) days' written notice to Nexamp. The Host may include in such notice its election to exercise its purchase option under Section 2.2 to acquire the System. If at the end of such thirty (30) day period such Force Majeure Event shall still be continuing, this Agreement shall automatically terminate. Upon such termination, neither Party shall have any liability to the other, subject to Section 20.5 (Survival).

(b) Upon the cessation of a Force Majeure Event, the Parties shall continue to perform their respective obligations under this Agreement. Notwithstanding the foregoing, if the System is damaged or destroyed by a Force Majeure Event and Nexamp provides written notice to Host that it intends to rebuild the System, then Nexamp may, at its sole cost and expense, rebuild or fix the System unless Host elects to not repair, restore or rebuild the Site or License Area in accordance with Section 9.1(d). Subsequent to replacement and commencement of operation of the replacement System, all terms and conditions of this Agreement will remain in effect including the remaining term of this Agreement; provided, that Nexamp must have made good faith efforts to order replacement panels and other necessary equipment within ninety (90) days of the completion of the Force Majeure Event.

(c) Except as otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement (other than of a provision that requires payment of money) if and to the extent that any failure or delay in such Parties' performance of one or more of its obligations hereunder is attributable to the occurrence of a Force Majeure Event; provided, that the Party claiming a Force Majeure Event shall (a) notify the other Party in writing of the existence of the Force Majeure Event, (b) promptly exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, and (c) notify the other Party in writing of the cessation or termination of said Force Majeure Event; and (d) resume performance of its obligations hereunder as soon as practicable thereafter. Notwithstanding anything in this Agreement to the contrary, if Nexamp claims relief pursuant to a "Force Majeure Event," the obligation of Host to make a Solar Services payment to Nexamp on any payment date shall be suspended as of the date that the Force Majeure Event commenced until Nexamp notifies Host that it has resumed performance of its obligations under the Agreement; provided, however, that Host shall not be excused from making any payments and paying any unpaid amounts due in respect of Solar Services provided to Host prior to the Force Majeure Event performance interruption.

SECTION 13. DISPUTE RESOLUTION.

13.1 Binding Arbitration. The Parties shall meet, confer and negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to the Agreement or the breach, interpretation, termination or validity thereof (a "Dispute"). Any Dispute that is not settled to their mutual satisfaction within the applicable notice or cure periods provided in this Agreement shall be settled by arbitration between the Parties conducted in Boston, Massachusetts, and in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect on the date that a Party gives notice of its demand for arbitration under this Section. The submitting Party shall submit such Dispute to arbitration by providing a written demand for arbitration to the other Party and the Parties shall select a single neutral arbitrator. If the Parties cannot agree on a single neutral arbitrator within fifteen (15) days thereafter, then either Party may request that the American Arbitration Association select and appoint a neutral arbitrator who shall act as the sole arbitrator. The arbitrator shall have significant experience with the solar power industry. The Parties may engage in discovery in connection with the arbitration as provided by the Massachusetts statutes and shall be entitled to submit expert testimony or written documentation in such arbitration proceeding. The decision of the arbitrator shall be final and binding upon Nexamp and Host and shall be set forth in a reasoned opinion, and award may be enforced thereon by either Nexamp or Host in a court of competent jurisdiction; provided, however, that the arbitrator shall not have the authority to award punitive, exemplary or analogous damages. Any award of the arbitrator shall include interest from the date of any damages incurred for breach or other violation of this Agreement at the rate of the lesser of (x) the rate per annum equal to the rate published as the prime rate in the *Wall Street Journal* plus two percent (2%) and (y) the maximum rate allowed by Applicable Law. Nexamp and Host shall each bear the cost of preparing and presenting its own case, provided, however, that the Parties hereby agree that the prevailing party in such arbitration shall be awarded its reasonable attorney's fees, expert fees, expenses and costs incurred in connection with the dispute. The cost of the arbitration, including the fees and expenses of the arbitrator, shall initially be shared equally by Nexamp and Host, subject to reimbursement of such arbitration costs and attorney's fees and costs to the prevailing party. The arbitrator shall be instructed to establish procedures such that a decision can be rendered within one-hundred eighty (180) calendar days of the appointment of the arbitrator.

13.2 Exceptions to Arbitration Obligation. The obligation to arbitrate shall not be binding upon any Party with respect to (a) requests for preliminary injunctions, temporary restraining orders, specific performance, or other procedures in a court of competent jurisdiction to obtain interim relief when deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution by arbitration of the actual Dispute or (b) actions to collect payments not subject to a bona fide Dispute or (c) claims permitted hereunder against third parties.

13.3 Arbitrator Confidentiality Obligation. Any arbitrator appointed to act under this Section must agree to be bound by a confidentiality agreement mutually acceptable to the Parties with respect to the terms of this Agreement and any information obtained during the course of the arbitration proceedings.

SECTION 14. LIMITATION OF LIABILITY.

NEITHER PARTY NOR ANY OF ITS INDEMNIFIED PERSONS SHALL BE LIABLE TO THE OTHER PARTY OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, CONSEQUENTIAL OR ANALOGOUS DAMAGES, OR LOSSES

OR DAMAGES FOR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, NEXAMP'S MAXIMUM LIABILITY WITH RESPECT TO THE SYSTEM, THE PERFORMANCE, OR FAILURE TO PERFORM, ANY OF THE SOLAR SERVICES, OR OTHERWISE UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED, IN THE AGGREGATE, TO THE AGGREGATE AMOUNT OF FIVE MILLION DOLLARS ($5,000,000). EACH PARTY HEREBY EXPRESSLY WAIVES ANY CLAIM AGAINST AND RELEASES FROM PERSONAL LIABILITY EACH OF THE OFFICERS, DIRECTORS AND EMPLOYEES OF THE OTHER PARTY EXCEPT TO THE EXTENT OF SUCH PERSON'S WILLFUL MISCONDUCT. NEXAMP AND ITS OFFICERS, AGENTS, EMPLOYEES AND SUBCONTRACTORS, ANY LENDER, EQUITY INVESTOR, FINANCING PARTY, AND ANY DIRECTORS, OFFICERS, MEMBERS, PARTNERS, SHAREHOLDERS AND EMPLOYEES OF THE FOREGOING SHALL HAVE NO LIABILITY WHATSOEVER RELATING TO ANY ENVIRONMENTAL VIOLATION INCLUDING, WITHOUT LIMITATION, THE COSTS OF ASSESSMENT, CONTAINMENT AND REMOVAL OF HAZARDOUS MATERIALS, EXCEPT TO THE EXTENT THAT ANY SUCH CLAIMS ARE DIRECTLY ATTRIBUTABLE TO THE ACTIONS OF NEXAMP.

SECTION 15. ASSIGNMENT AND SUBCONTRACTING.

15.1 Successors and Assigns; Subcontracting. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective permitted successors and assigns; provided, that Nexamp in its discretion may elect to use such certified and licensed subcontractors as it may choose in performing any of its obligations hereunder and performance of any obligation of Nexamp by any such subcontractor shall satisfy such obligation to the extent of such subcontractor's performance.

15.2 Assignment by Host. Host shall not sell, transfer, assign, pledge or cause to be assumed (together, "Assign"; and any such action, an "Assignment") this Agreement, in whole or in part, without the prior written consent of Nexamp and its applicable Financing Parties.

15.3 Assignment by Nexamp. Except as set forth in Section 15.4, Nexamp shall not, without the prior written consent of Host, Assign this Agreement, in whole or in part; provided, Host's consent to an Assignment by Nexamp of any of its rights (and/or a delegation of any of its obligations) shall not be unreasonably withheld, delayed or conditioned if Host has been provided with reasonable proof that the proposed assignee: (a) has comparable experience in operating and maintaining solar electric generating System similar to the System; and (b) has the financial capability to maintain the System in the manner required by this Agreement and to perform the obligations under this Agreement; and provided, further, that without the prior consent of Host, Nexamp may (i) Assign this Agreement to an Affiliate of Nexamp or (ii) Assign its interest in any monies due under this Agreement (it being understood, however, that in such a case, Host will not pay to a third party any monies owed hereunder without the advance written direction of Nexamp, which notice Nexamp shall provide not less than fifteen (15) days in advance of the due date of such payment). Any assignment shall be conditioned upon the assignee explicitly assuming all of Nexamp's obligations under this Agreement. Neither the consent of Host to an Assignment, nor the references in this Agreement to assignees or successors, shall in any way be construed to relieve Nexamp (in the event of a partial assignment) or any assignee of the requirement of obtaining the consent of Host to any further Assignment of this Agreement. Nexamp shall deliver

to Host five days' (5) advance written notice of its Assignment of this Agreement pursuant to the first sentence of this Section 15.3 or clause (i) of this Section 15.3.

15.4 Consent to Assignment for Financing or Leasing. Nexamp may seek financing for the ownership of all or a portion of the System under this Agreement, whether by leasing all or a portion of the System from an Equipment Leasing Party or entering into other arrangements with a Financing Party in the form of an equipment lease, finance lease, debt, equity, tax equity or other financing arrangement. Notwithstanding any provisions in this Agreement to the contrary, Nexamp may collaterally assign, or assign fully in connection with any financing of the System (which may, in connection with such Assignment, permit the Financing Party to further assign collaterally), its rights, and/or obligations hereunder, or the Agreement in its entirety for purposes of securing such financing or leasing arrangement. Host hereby consents to any such Assignment, provided that:

(a) such Assignment shall not create any Lien or other encumbrance on the Site other than Nexamp's rights pursuant to Section 4.1 and Nexamp's other rights and obligations contemplated in this Agreement nor on any other real or personal property located on the Site other than the System;

(b) all provisions regarding the entry onto and use of the applicable License Area shall remain in effect;

(c) the Financing Party, as applicable, shall enforce its interest and protect the applicable License Area in accordance with Nexamp's obligations hereunder;

(d) Host acknowledges that upon and following an event of default under any financing or leasing documents relating to the System, the Financing Parties, if any, may (but shall not be obligated to) assume, or cause their designees to assume, all of the interests, rights and obligations of Nexamp thereafter arising under this Agreement; and

(e) If the rights and interests of Nexamp in this Agreement shall be Assigned, in whole or in part, as herein provided, and the assignee shall agree in a writing submitted to Host to be bound by, and to assume, the terms and conditions hereof and any and all obligations to Host arising or accruing hereunder from and after the date of such Assignment (or, in the case of a partial Assignment, to be bound by the portion of this Agreement so assigned and relevant associated obligations to Host arising or accruing hereunder from and after the date of such Assignment), Nexamp shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date (or, in the case of a partial Assignment, released and discharged of the terms and conditions hereof so assigned and the associated obligations hereunder from and after such date), and Host shall continue this Agreement, or the relevant portion of this Agreement with the assignee as if such person had been named as Nexamp under this Agreement; provided that such assignee: (a) has experience in operating and maintaining solar electric generating System similar to the System and in similar geographic location and climate comparable to that in which the System is located and personnel qualifications and performance record contained in Nexamp's proposal; and (b) has financial capability to maintain the System in the manner required by this Agreement and to perform the obligations under this Agreement, each substantially similar to that of Nexamp; and provided, further, that if Nexamp Assigns this Agreement, or any portion hereof, to a Financing Party as provided herein, Host acknowledges and agrees that such Persons shall not be personally liable for the performance of such assigned obligations

hereunder except to the extent of the interest of the Financing Parties in the System. Notwithstanding any such Assignment to one or more Financing Parties or a designee thereof, Nexamp shall not be released and discharged from and shall remain liable for any and all obligations to Host arising or accruing hereunder (and, in the case of a partial Assignment, for the obligations accruing after the date of such Assignment with respect to obligations accruing under the unassigned portion of the Agreement). Nexamp shall not, however, have any liability for any action or omission of the Financing Party hereunder.

Host agrees to sign, execute and deliver each such instrument or other document as Nexamp or its Financing Parties, if any, may reasonably request to satisfy the requirements of any Financing Party with respect to or in connection with any financing or leasing of the System. Host also agrees, to the extent required by a Financing Party, if any, to provide Nexamp and/or a Financing Party with such information about Host or the Site as Nexamp, a Financing Party may reasonably request.

15.5 Rights of Financing Parties.

(a) A Financing Party may perform, but shall not be obligated to perform, any of Nexamp's obligations hereunder, including holding and conveying title to the System. The rights of Nexamp hereunder shall apply, to the extent relevant, *mutatis mutandis* to any Financing Party.

(b) Any Financing Party shall be the beneficiary of any and all representations, warranties and covenants made by Host to Nexamp hereunder, including the covenants made in Section 4 and Section 9.

(c) Any Financing Party shall each have the benefit of the license to the Site provided to Nexamp pursuant to Section 4.1.

15.6 Financing Parties as Third Party Beneficiaries. The provisions of this Section 15 are for the benefit of any Financing Party as well as the Parties hereto, and shall be enforceable by any Financing Party as express third-party beneficiaries hereof. Host hereby agrees that neither a Financing Party, nor any Person for whom they may act, shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Agreement on the part of Nexamp or shall have any obligation or liability to Host with respect to this Agreement except to the extent any of them becomes a party hereto pursuant to this Section 15.

SECTION 16. NOTICES.

16.1 Notice Addresses. Unless otherwise provided in this Agreement, all notices and communications concerning this Agreement shall be in writing and addressed to the other Party as set forth on the Cover Sheet or at such other address as may be designated in writing to the other Party.

16.2 Notice. Unless otherwise provided herein, any notice provided for in this Agreement shall be hand delivered, sent by registered or certified U.S. Mail, postage prepaid, or by commercial overnight delivery service, or transmitted by facsimile, and shall be deemed served or delivered to the addressee or its office when received at the address for notice specified herein when hand delivered, upon confirmation of sending when sent by facsimile (if sent during normal business hours or the next business day if sent at any other time), on the day after being

sent when sent by overnight delivery service, or five (5) business days after deposit in the mail when sent by U.S. mail.

16.3 Financing Party Notice. Any notice or other communication which Host shall desire or is required to give to or serve upon a Financing Party in accordance with the terms of this Agreement shall be in writing and shall be served in accordance with the provisions of Section 16.2, addressed to such Financing Party at such party's addresses provided in writing by a Financing Party or by Nexamp to Host, and any notice or other communication which the Financing Party shall desire or be required to give to or serve upon Host shall be deemed to have been duly given or served if sent in accordance with the provisions of Section 16.1 or at such other address as shall be designated by Host by notice in writing given to such Financing Party in accordance with the provisions of this Section 16.

16.4 MTC Notice. Any notice or other communication which Host shall desire or is required to give to or serve upon MTC in accordance with the terms of this Agreement shall be in writing and shall be served in accordance with the provisions of Section 16.2, addressed to MTC at 75 North Drive, Westborough, Massachusetts, (508) 898-2275 (Fax), Attn: General Counsel.

16.5 Address for Invoices. All invoices under this Agreement shall be sent to the address provided for Host on the Cover Sheet. Invoices shall be sent by regular first class mail postage prepaid or as otherwise agreed by the Parties.

SECTION 17. CONFIDENTIALITY.

17.1 Confidentiality. Any Confidential Information furnished by either Party to the other Party in connection with the this Agreement shall not be disclosed to third parties without the prior written consent of the other Party, unless required by law, governmental agency or the rules of an applicable securities exchange, provided that in such case the parties shall use reasonable efforts to notify the other in advance to afford it an opportunity to protect its information. This provision shall not apply to information within any one of the following categories or any combination thereof: (a) information that was in the public domain prior to the receiving Party's receipt of the same or that subsequently becomes part of the public domain by publication or otherwise, except as a result of the receiving Party's wrongful act; (b) information that the receiving Party can show was in its possession prior to receipt thereof from the disclosing Party; (c) information legally received by either Party from a third party having no obligation of confidentiality with respect therein; or (d) information that is independently developed by the receiving Party without violating its obligations hereunder. Notwithstanding any provision in this Section to the contrary, Host shall have no obligation to maintain as confidential and shall at all times adhere to its obligation under Applicable Law to disclose public records, as defined under Applicable Law.

17.2 Goodwill and Publicity. The Parties shall coordinate and cooperate with each other when making public announcements related to this Agreement Neither Party shall use the name, trade name, service mark, or trademark of the other in any promotional or advertising material without the prior written consent of the other.

17.3 Survival. The obligations set forth in this Section 17 shall survive expiration or termination of this Agreement for a period of three (3) years.

SECTION 18. INDEMNITY.

18.1 Nexamp's Indemnity. Nexamp shall indemnify, defend and hold harmless the Host, its officers, agents and employees (each a "Host Indemnitee") of and from any claim, demand, lawsuit, or action of any kind for injury to or death of persons, including, but not limited to, employees of Host, and damage or destruction of property, including, but not limited to, property of Host, or other loss or damage (any of the foregoing, a "Claim") incurred by Host, arising out of (i) negligent acts or omissions or willful misconduct of Nexamp, its agents, officers, directors, employees or contractors; or (ii) the material breach by Nexamp of any of its obligations under this Agreement. The obligation to indemnify shall extend to and encompass all costs incurred by Host and any Host 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.

18.2 Limitations. Nexamp's obligations pursuant to Section 18.1 shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the negligence or willful misconduct of the Host, its Indemnitees, or their respective contractors, successors or assigns, or to the acts of third parties. Nexamp shall pay any cost that may be incurred by Host or its Indemnitees in enforcing this indemnity, including reasonable attorney fees.

SECTION 19. INSURANCE.

19.1 Generally. Host shall maintain in full force and effect throughout the Term an Umbrella Liability Insurance covering all municipal operations and property in the amount of $30 million. Nexamp shall maintain the following insurance coverages in full force and effect throughout the Term:

(a) Workers' Compensation Insurance as may be from time to time required under applicable federal and state law;

(b) Commercial General Liability Insurance on an occurrence (not claims-made) form, including premises and operations, personal injury, broad form property damage, products/completed operations, contractual liability and independent contractors protective liability all with minimum combined single limit liability of two million dollars ($2,000,000) in the aggregate and one million dollars ($1,000,000) per occurrence; and

(c) Automobile Liability Insurance (including owned, non-owned and hired) with limits of not less than one million dollars ($1,000,000) combined single limit and in the aggregate.

(d) All Risk Property Coverage and Boiler and Machinery Coverage, or All Risk Builder's Risk Insurance during construction, against damage to the System during the Term in an amount not less than the full replacement cost of the System, with commercially reasonable sub-limits and deductibles. Such insurance shall provide for a waiver of the underwriters' right to subrogation against the Host and its affiliates.

(e) Excess Umbrella Liability Insurance in an amount not less than five million dollars ($5,000,000).

Host shall continue to maintain Umbrella Liability Insurance on all municipal operations and property in the amount of $30 million.

19.2 Casualty Insurance. In addition to the insurance coverages required by Section 19.1, Nexamp shall obtain casualty loss property insurance on the System in an amount which Nexamp deems reasonable, based on its understanding of prudent solar industry practices. Nexamp may provide a Financing Party, if any, with the first rights to any payout from any such insurance policy.

19.3 Certificates of Insurance. Each Party shall furnish current certificates evidencing that the insurance required under Section 19.1 is being maintained. Each Party's insurance policy provided hereunder shall contain a provision whereby the insurer agrees to give the other Party thirty (30) days' written notice before the insurance is cancelled or materially altered.

19.4 Additional Insureds. Each of the Host's and Nexamp's insurance policies shall be written on an occurrence basis and shall include the other Party as an additional insured as its interest may appear.

19.5 Self-Insurance. Any insurance required by this Section to be maintained by either Party may be maintained in the form of self-insurance if such insurance is not commercially available at reasonable rates.

19.6 Insurer Qualifications. All insurance maintained hereunder, other than self-insurance, shall be maintained with companies authorized to do business in Massachusetts and either rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated) or having a parent company's debt to policyholder surplus ratio of 1:1.

SECTION 20. MISCELLANEOUS.

20.1 Interpretation. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement. Words in this Agreement that import the singular connotation shall be interpreted as plural, and words that import the plural connotation shall be interpreted as singular, as the identity of the parties or objects referred to may require; provided, for the benefit of clarity, the Parties acknowledge that with respect to the use of the singular form of "System" and the plural "System" shall be interpreted in the context of any right of Host to purchase the System as applying to both System; i.e. the Host may not purchase only a single System. The words "hereof", "herein", and "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular provision of this Agreement. The words "include", "includes", and "including" mean include, includes, and including "without limitation". Except as the context otherwise indicates, all references to "Exhibits" and "Sections" refer to Exhibits and Sections of this Agreement.

20.2 Industry Standards. Except as otherwise set forth herein, for the purpose of this Agreement the normal standards of performance considered to be prudent within the solar power generation industry in Massachusetts shall be the measure of whether a Party's performance is reasonable and timely. Unless expressly defined herein, words having well-known technical or trade meanings shall be so construed.

20.3 Cumulative Remedies. Except as set forth to the contrary herein, any right or remedy of Nexamp or Host shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

20.4 Limited Effect of Waiver. The failure of either Nexamp or Host to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance or of any other provision in any instance.

20.5 Survival. In addition to the other provisions of this Agreement that shall survive any expiration or termination hereof in accordance with the explicit terms thereof, the provisions of Section 1 (Definitions), Section 10.3 (Exclusion of Warranties), Section 11 (Taxes and Governmental Fees), Section 13 (Dispute Resolution), Section 14 (Limitation of Liability), Section 15 (Assignment and Subcontracting), Section 16 (Notices), Section 17 (Confidentiality), Section 18 (Indemnity) and Section 20 (Miscellaneous) shall survive the expiration or termination of this Agreement for any reason; provided, that the survival of any particular provision or set of provisions shall be limited in duration if and to the extent such survival is explicitly limited herein or otherwise limited by Applicable Law.

20.6 Severability. If any term, covenant or condition in this Agreement shall, to any extent, be invalid or unenforceable in any respect under the laws governing this Agreement, the remainder of this Agreement shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law and, if appropriate, such invalid or unenforceable provision shall be modified or replaced to give effect to the underlying intent of the Parties and to the intended economic benefits of the Parties.

20.7 Cover Sheet. For the avoidance of doubt, the Parties acknowledge that the signatures of their duly authorized representatives follow the two-page Cover Sheet at the beginning of this Agreement and that the foregoing Terms and Conditions are incorporated into this Agreement.

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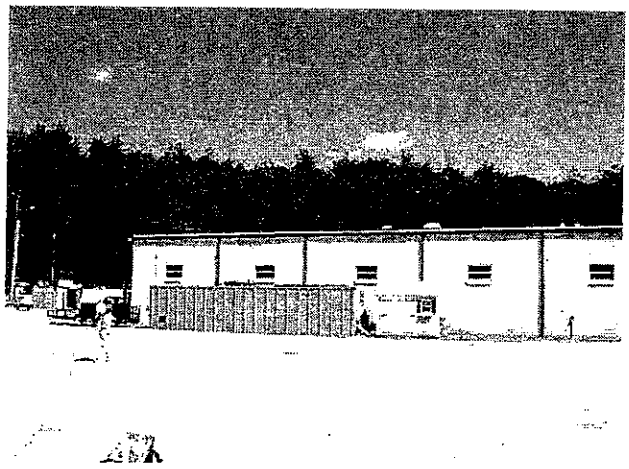
EXHIBIT A

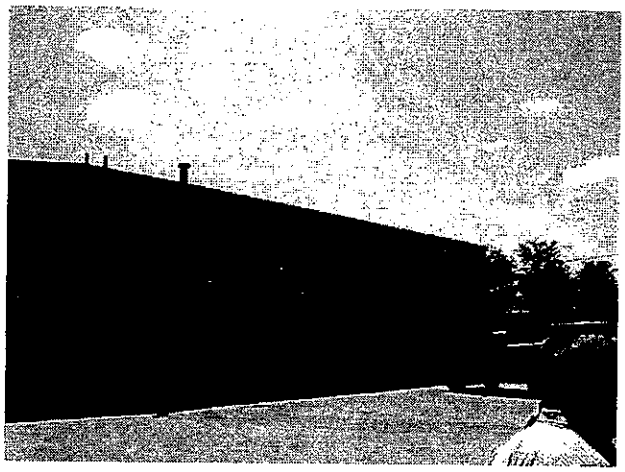
DESCRIPTION OF SITE

Site Description

The building is oriented approximately 205 degrees True South and there is excellent solar access on most portions of the roof. There is no parapet, and roof heights range from 20 feet to approximately 40 feet.

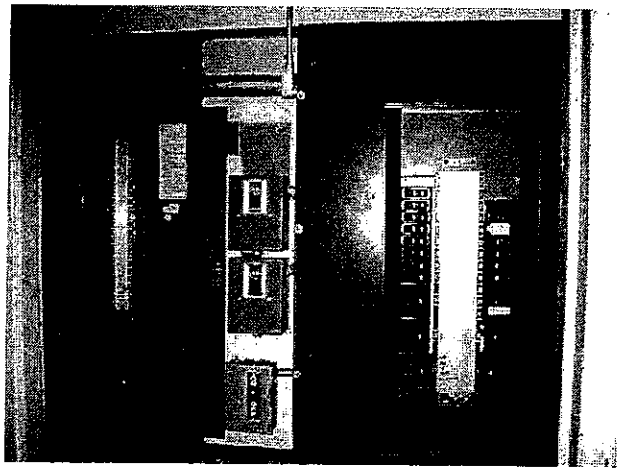


Site has excellent southern exposure with an annual solar access of 96%



Roof pitch is 5 degrees which will allow for a 15 degree PV array tilt on the southern roof and a 5 degree PV array tilt on the northern roof

PV array will use a self-ballasting system to maintain the integrity of the roof and to reduce required roof penetrations.



Main switchgear to which the solar PV system will be connected.

EXHIBIT B

NEXAMP KWH RATE

The Nexamp kWh Rate shall be eight and eight tenths cents ($.09) per kilowatt hour for all electricity generated by the System during the Term.

EXHIBIT C

DESCRIPTION OF SYSTEM

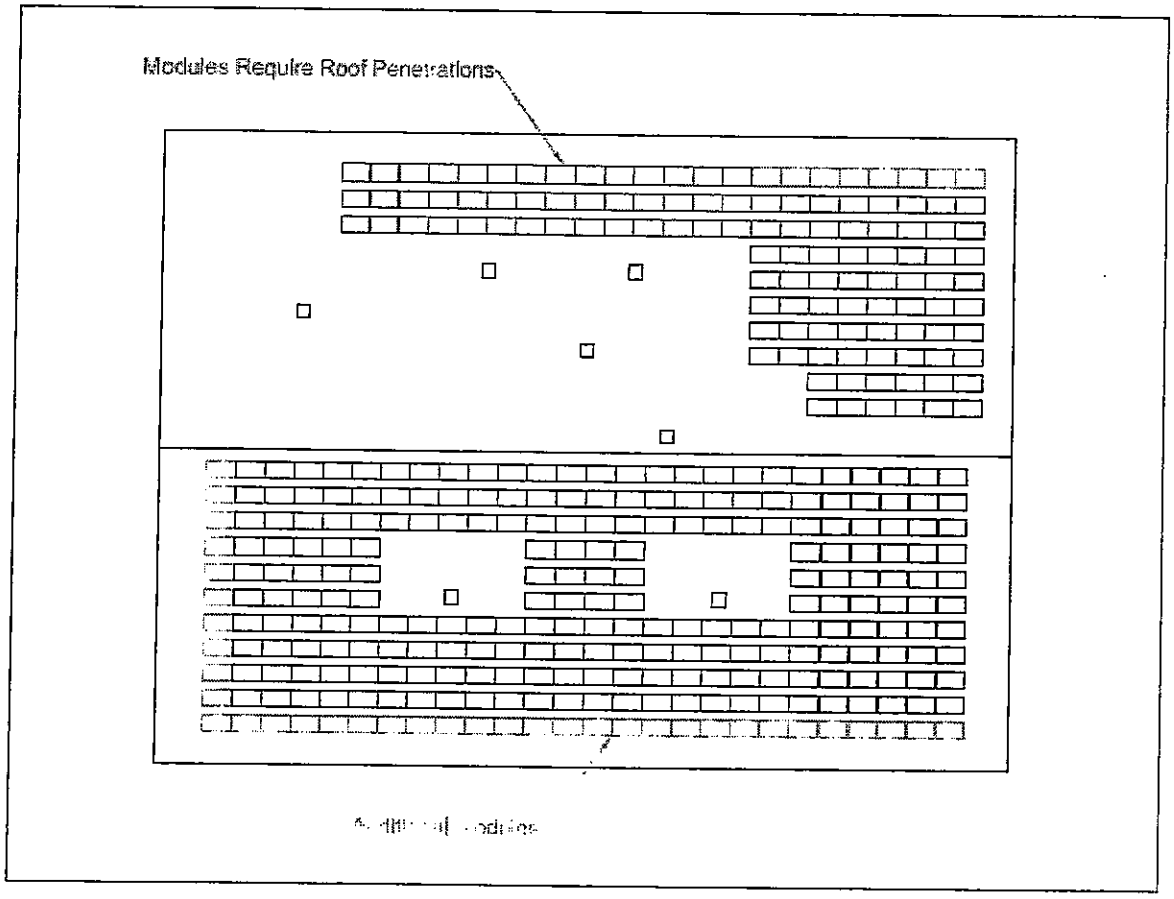


EXHIBIT D

EARLY TERMINATION PRICE SCHEDULE

Contract Year	Early Termination Price
1	$420,000
2	$373,333
3	$326,666
4	$280,000
5	$233,333
6	$210,000
7	$128,069
8	$120,129
9	$112,190
10	$104,250
11	$97,898
12	$91,547
13	$85,195
14	$78,844
15	$72,492
16	$67,728
17	$62,964
18	$58,201
19	$53,437
20	$48,673

EXHIBIT E

REC PURCHASE OPTION PRICING

Four and one half cents ($.045) per kWh at all times during the Term.

EXHIBIT F

GUARANTEED PRODUCTION

Contract Years	Predicted Aggregate Production (kWh)	Avoided Cost (per kWh Shortfall in Actual Production)
1st through 4th	337,607	TBD
5th through 8th	330,905	TBD
9th through 12th	324,336	TBD
13th through 16th	317,898	TBD
17th through 20th	311,588	TBD

For purposes of this Exhibit F and in calculating the amount of the payment or credit due Host, "Avoided Cost" shall be equal to the sum of the average of each of the charges per kWh included over the applicable four-Contract Year period on line items on the Host's monthly electric bill from its local distribution company and / or its energy supplier other than Nexamp with an associated "kWh" description, including but not limited to: distribution charges, transition charges, transmission charges, demand side management charges, renewable energy charges and supply charges (based on the standard offer in effect as of the beginning of the relevant four Contract Year period).

If the System suffers a casualty that reduces the output of the System or permanently impairs the capacity of the System to generate electric power, the predicted aggregate production amounts set forth above shall be ratably reduced in proportion with such casualty or impairment.

EXHIBIT G

NEXAMP PROPOSAL AND AMENDMENT

[Attached.]