

## SOLAR NET METERING CREDIT AGREEMENT

This SOLAR NET METERING CREDIT AGREEMENT (the "Agreement") is entered into as of \_\_\_\_\_, 2022 (the "Effective Date") by and between:

**Customer:** Town of Hinesburg AND **System Owner:** Hartland GUVSWMD Solar LLC  
10632 Route 116 15 Railroad Row, Suite 101  
Hinesburg, VT 05461 White River Junction, VT 05001

Customer and System Owner are referred to herein individually as a "Party" and collectively as the "Parties." This Agreement shall supersede any and all previous Agreements between the Parties with respect to the subject matter hereof.

A. System Owner is engaged in the business of developing, installing, owning, operating, and maintaining solar generation systems across the United States and internationally. The System is being built to produce electricity and Net Metering Credits ("NMCs") pursuant to 30 V.S.A. § 8010 and 30 V.S.A. § 248, PUC Rule 5.100 and Green Mountain Power Corporation's (the "Utility") Net Metering Tariff(s).

B. System Owner plans to construct a photovoltaic solar electric generation system in size and on location as identified in Appendix B hereto (defined individually and collectively, as the context requires, as the "System"), within the Utility's service territory. The System will generate electricity output and associated Net Metering Credits a specific portion of which shall be allocated by System Owner to Customer hereunder in accordance with the allocation instructions attached hereto as Appendix E (the "Allocation Instructions") and to be filed with the Utility pursuant to 30 V.S.A. § 8010 and 30 V.S.A. § 248 and PUC Rule 5.130). Appendix B will be finalized based on final as-built drawings and System production at Commercial Operation Date.

C. The System is intended to serve other customers from time to time, initially as identified in the Allocation Schedule set forth in Appendix E hereto. The method by which Customer allocations are made by the System Owner and by which customers may be added to and removed from the Net Metering Group is set forth in Section 2.5 hereof and Appendix E hereto.

NOW THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter set forth and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree and intend to be legally bound as follows:

- Commercial Terms:**
  - Sale Price:** The Sale Price is determined by a ten percent (10%) discount from the Net Metering Credits (comprised of the Statewide Blended Residential Retail Rate plus Siting Adjustor and REC Adjustor) applied to the Customer's electric utility bill.
  - Initial Term:** Twenty-five (25) years from the Commercial Operation Date.
  - Renewal Term(s):** Before the termination of the Initial Term, the Parties may extend this Solar Net Metering Credit Agreement for one or more five (5) year Renewal Terms on mutually agreeable conditions ("Renewal Term").
  - Utility:** Green Mountain Power Corporation
  - Net Metering Credits Contracted:** The Net Metering Credits contracted and credited to the Customer's bills shall be that corresponding to a fixed allocation of production from the System that is equal to ninety percent (90%) of the Customer's annual electric utility bills at the time of the Commercial Operation Date.
  - Expected Commercial Operation Date:** January 31, 2023 or earlier
  - Accumulated Bill Credits:** Any accumulated bill credit must be used within twelve (12) months from the month it is earned, or it reverts to the utility company without any compensation to the Customer. Bill credits may not be transferred independently of a transfer of ownership of a net-metering system.
  - Membership in Multiple Net-Metering Groups:** Individual Customer accounts may be enrolled in only one net-metering group at a time. Customers with multiple accounts may enroll each account in a separate net-metering group.
  - 500 kW Customer Limit:** The cumulative capacity of net-metering systems allocated to a single customer may not exceed 500 kW. For example, a customer who has two accounts cannot have each account allocated more than 50 percent of the output from two 500 kW net-metering systems because the cumulative capacity of the allocated share of those net-metering systems would exceed 500 kW.

2. The following documents, along with this Cover Page, shall be deemed to form the Agreement, each of which are incorporated herein by this reference as though set forth herein in their entirety:

Appendix A	General Terms and Conditions
Appendix B	Description of Site & System Layout
Appendix C	Expected System Generation & Expected Net Metering Credits Contracted
Appendix D	[Reserved]
Appendix E	Allocation Instructions

This Agreement may be executed by the Parties in one or more counterparts, all of which taken together, will constitute one and the same instrument. Any counterpart may be executed by facsimile signature or any image transmitted by electronic mail (such as a pdf file) and such facsimile signature or image shall be deemed an original.

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

**Customer:** Town of Hinesburg, Vermont

**System Owner:** Hartland GUVSWMD Solar LLC, a Vermont member-managed limited liability company

By: \_\_\_\_\_

By: Norwich Technologies, Inc., its Member

Name: \_\_\_\_\_

By: \_\_\_\_\_  
Its duly authorized officer

Title: \_\_\_\_\_

## APPENDIX A General Terms and Conditions

### ARTICLE 1 DEFINITIONS AND INTERPRETATION

**Definitions.** The following terms, when used in the Agreement and initially capitalized, have the following meanings:

**“Agreement”** means this Solar Net Metering Credit Agreement, comprising the Cover Page and all Exhibits, Appendices and Schedules attached hereto, including these General Terms and Conditions, each as modified from time to time in accordance with the terms of this Agreement.

**“Code”** shall mean the United States Internal Revenue Code of 1986, as amended from time to time, and any successor statute.

**“Commercial Operation”** means that the System has been constructed in accordance with Laws applicable to the subject of this Agreement, is mechanically complete and immediately capable of generating electricity at full or substantially full capacity, and has been interconnected to the local distribution system of the Utility in accordance with the interconnection agreement and the Utility's tariffs so as to allow regular, continuous operation of the System, and qualifies as a net metering system under 30 V.S.A. § 8010, 30 V.S.A. § 248 and PUC Rule 5.100.

**“Commercial Operation Date”** means the date on which the System is ready for Commercial Operation, such date to be identified by System Owner in a notice to Customer as the Commercial Operation Date.

**“Cover Page”** means the first page of this Agreement.

**“Credit Rating”** means with respect to an entity, on any date of determination: (i) the lower of the ratings assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) by S&P and Moody's; or (ii) in the event the entity does not have a rating for its senior unsecured long-term debt (not supported by third party credit enhancements), the lower of the ratings assigned to the entity as an issuer by S&P and Moody's.

**“Customer”** has the meaning set forth on the Cover Page or any successor entity, together with any other member of the Group, from time to time, as the context requires. Each such Customer shall be a “Customer” under 30 V.S.A. § 8010, 30 V.S.A. § 248 and PUC Rule 5.103.

**“Customer Event of Default”** means an Event of Default by a Customer.

**“Customer Replacement Agreement”** means an agreement entered into by Customer after the termination of this Agreement for a System Owner Event of Default for the purchase of Net Metering Credits associated with electricity output of the System.

**“Customer Replacement Agreement Sale Price”** means the Sale Price at which of the Net Metering Credits associated with the electricity output purchased by Customer under a Customer Replacement Agreement.

**“Defaulting Party”** has the meaning set forth below.

**“Dispute”** has the meaning set forth below.

**“Effective Date”** has the meaning set forth on the Cover Page.

**“Environmental Attributes”** means the aggregate amount of credits, set-offs, payments, rights, attributes, or other benefits of all kinds associated with or arising out of or otherwise corresponding to the capacity and associated electricity, or otherwise arising due to the production of electricity by the System, and the sale, transmission and distribution of such electricity by System Owner and others (other than payments under this Agreement), ITCs, ITC Grants, and other tax deductions, credits, and incentives. Environmental Attributes shall include (i) SRECs, RECS, environmental air quality credits, off-sets or other benefits related to the generation of electricity by the System in a manner which reduces, displaces or off-sets emissions resulting from fuel combustion at another location pursuant to any Law, and (ii) credits (other than Net Metering Credits inclusive of any credit available under 30 V.S.A. § 8010), off-sets, green pricing programs, renewable energy credit trading programs, or any similar program or benefits derived from the use, purchase or distribution of renewable energy from the generation of electricity from the System pursuant to any Law. Environmental Attributes shall not include any credit, allowance, entitlement, certificate, product, valuation or other benefit that inures solely to a Customer because such Customer is a municipal corporation and political subdivision of the State of Vermont.

**“Event of Default”** has the meaning set forth below.

**“Force Majeure”** means an event or circumstance beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include failure or interruption of the production, interruption of operation of the solar system by any third party or occurrence outside control of System Owner, delivery or acceptance of electricity due to an act of God; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerrilla action; terrorism or threat of terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition; action of the elements; hurricane; flood; lightning; wind; drought; peril of the sea; the binding order of any governmental authority other than Customer or entity controlled by Customer; the failure to act on the part of any governmental authority (provided that such action has been timely requested and diligently pursued); and unavailability of electricity from the utility grid, equipment, supplies or products, but not to the extent that any such unavailability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence; and failure of equipment not utilized by or under the control of a Party.

**“Group” or “Net Metering Group”** means the collection of customers who are being allocated NMCs generated by the System under a Net Metering Agreement from time to time.

**“Initial Term”** has the meaning set forth on the Cover Page.

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

“**ITC**” means the tax credit for energy property described in Section 48(a)(3) of the Code.

“**ITC Grant**” means a grant received by System Owner pursuant to Section 1603 of the American Recovery and Reinvestment Act of 2009.

“**kW**” means kilowatt.

“**kWh**” means kilowatt-hour.

“**Laws**” means any law, treaty, code, rule or regulation, or determination of, court or other governmental authority exercising executive, legislative, judicial, regulatory or administrative functions.

“**Meter**” means the meter(s) designated to the Utility for Net Metering Credits pursuant to 30 V.S.A. § 8010, PUC Rule 5.100, the Utility’s Net Metering Tariffs, and Section 2.5 hereof.

“**Net Metering**” means measuring the difference between the electricity supplied to Utility customers and the electricity fed back by a net metering system during the customers’ billing period, as further described in 30 V.S.A. § 8010 and PUC Rule 5.100.

“**Net Metering Credits or NMCs**” mean net metering credits as specified in the Net Metering Rules and the Utility’s Net Metering tariffs. For the avoidance of doubt one (1) NMC equals one (1) kWh of electrical output times the applicable credit amount in the Utility’s tariff, inclusive of any additional credits available under 30 V.S.A. § 8010 and PUC Rule 5.100 for solar net metering systems. The initial value of the Net Metering Credits shall be as established under the PUC’s Rule 5.127(B) and 5.127(C).

“**Net Metering Credits Contracted**” means the amount of NMCs Customer is obligated to purchase from System Owner, subject to Cover Page and Appendix C, and shall correspond to a fixed allocation of production from the System.

“**Net Metering Rules**” means, collectively and as amended from time to time, the Vermont net metering statute, 30 V.S.A. § 8010, the Public Utility Commission Rule 5.100, and the Utility’s tariffs.

“**Notice of Exercise**” has the meaning set forth below.

“**Operating Period**” means the period commencing on the Commercial Operation Date and ending on termination of this Agreement.

“**Party**” has the meaning set forth on the Cover Page.

“**Purchase Date**” has the meaning set forth below.

“**Production Meter**” means an electric meter that measures the amount of kWh produced by a net-metered generation source.

“**Public Utility Commission**” or “**PUC**” means the Vermont Public Utility Commission.

“**Renewal Term**” means an additional term for which Customer and System Owner agree to extend this Agreement prior to the end of the Initial Term. Such extension must be agreed in writing 60 days prior to termination and can be for a period of years agreed to by the Parties.

“**System Owner**” has the meaning set forth on the Cover Page or any successor entity.

“**System Owner Event of Default**” means an Event of Default by System Owner.

“**System Owner Replacement Agreement**” means an agreement entered into by System Owner after the termination of this Agreement for a Customer Event of Default for the sale of net metering credits associated with the electricity output generated by the System.

“**System Financing**” has the meaning set forth below.

“**System Lenders**” has the meaning set forth below.

“**System Owner**” has the meaning set forth below.

“**System**” has the meaning set forth on the Cover Page.

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

“**Term**” means the period beginning on the Effective Date and ending on the last day of the Initial Term or the last subsequent Renewal Term, subject to earlier termination pursuant to the terms hereof, as applicable.

“**Utility**” has the meaning set forth on the Cover Page.

“**Utility’s Net Metering Tariffs**” means the Utility’s net metering tariffs pursuant to 30 V.S.A. § 8010 and PUC Rule 5.100.

**Interpretation.** Unless the context otherwise requires, the following general rules of construction shall apply to this Agreement: (a) terms stated in the singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa; (b) the words “includes” or “including” shall mean, unless the context requires otherwise, “including with limitation”; (c) references to a Section or Exhibit shall mean a Section or Exhibit, as the case may be, of this Agreement; (d) a reference to an agreement or instrument shall be to the agreement or instrument as modified through the date on which the reference is made; (e) a reference to a Law is to the Law as amended, replaced or restated from time to time; (f) a reference to a “person” includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization or other entity, in each case whether or not having a separate legal personality and (g) a reference to Customer or System Owner shall include its respective permitted assigns and successors, unless contrary to the context.

## **ARTICLE 2. DELIVERY OF ELECTRICITY & NMCs**

**2.1 Delivery Obligations.** The System Owner’s obligation to deliver electrical output and to thereby generate Net Metering Credits shall commence upon System Owner’s written notice to Customer that the System is commercially operational and interconnected to the Utility’s electric grid, as accepted by the Utility. During the Operating Period, System Owner shall deliver all of the electricity generated by the System to the System’s Production Meter beyond that needed to serve its parasitic load.

**2.2 Unit Contingent Sale.** System Owner's obligation to deliver electricity to the Production Meter is expressly subject to, and contingent on, the availability of the System and the generation of electricity and Net Metering Credits by the System.

**2.3 Take or Pay and Pricing.** For each month of the Operating Period and regardless of whether Customer can use the NMCs or not, Customer shall pay to System Owner, in accordance with Article 7, an amount equal to (i) Customer's allocation of Net Metering Credits associated with the System electrical output, as reflected on the Utility invoices of Customer (or an entity controlled or managed by Customer) for the Meters listed on the schedule filed with the Vermont Public Utility Commission, as may be modified from time to time, with copies to the Vermont Public Service Department and the Utility pursuant to 30 V.S.A. § 8010 and PUC Rule 5.130, times (ii) Sale Price (as defined on the Cover Page and Exhibit C). Customer acknowledges that pursuant to 30 V.S.A. § 8010 and applicable provisions of PUC Rule 5.100, any accumulated NMCs shall be used within 12 months, or shall revert to the Utility, without any compensation to Customer. System Owner shall have no responsibility, and not be required to pay or reimburse Customer, for any unused NMCs.

**2.4 Environmental Attributes.** System Owner shall have right to all Environmental Attributes including the right to transfer them to the Utility in furtherance of state goals, and Customer hereby disclaims and transfers any interest Customer may have in such Environmental Attributes to System Owner. System Owner's delivery to Customer of the Net Metering Credits associated with the electricity output produced by the System and Customer's ownership of the Net Metering Credits in respect of the electricity output produced by the System shall not entitle Customer to Environmental Attributes or any other attributes of ownership of the System, all of which shall be owned and controlled by System Owner. Customer shall take such further actions as System Owner may reasonably request to fully vest title in the Environmental Attributes to System Owner.

**2.5 Allocation Instructions.** On or before the Commercial Operation Date, System Owner shall instruct the Utility to allocate Net Metering Credits associated with the electrical output generated by the System in accordance with the Allocation Instructions in Appendix E. System Owner and Customer acknowledges that adjustments to the Allocation Instructions may become necessary or desirable from time to time due to, among other things, the addition of Meters to the Net Metering Group as set forth in Appendix E, and changes in rate schedules and electricity usage as between customers' Meters. System Owner and Customer shall cooperate in good faith to identify the optimum allocation of Net Metering Credits associated with the electricity output generated by the System, which maximizes the net savings and benefits realized by Customer.

### ARTICLE 3 TAXES

**3.1 System Owner Obligations.** System Owner shall be responsible for all uniform capacity, state property, income, gross receipts, ad valorem or other similar taxes and any and all franchise fees or similar fees assessed against it due to its ownership of the System.

### ARTICLE 4 OPERATIONS

**4.1 System Operations.** System Owner shall at its sole cost and expense (i) construct, operate, insure and maintain the System in accordance with Laws, applicable manufacturers' warranties and instructions and the requirements of this Agreement; (ii) perform all repairs on the System; and (iii) provide, or arrange for the provision of, all labor, material, and other supplies for the System.

**4.2 System Development.** Subject to the terms hereof, System Owner shall at its sole cost and expense undertake commercially reasonable efforts to obtain required permits and financing for, and to construct, operate, and maintain the System in a manner such that the System qualifies as a net metering system, and arrange for interconnection of the System to the Utility's electrical grid. At no time shall Customer have any duty to construct, operate, or maintain the System, or to contribute labor, materials, or funds for such purpose, or to perform any other obligations of System Owner.

**4.3 System Performance.** System Owner shall own, operate, maintain, repair and improve the System in a manner that is consistent with industry standards in the solar voltaic electric generation industry throughout the Term of this Agreement.

### ARTICLE 5 TERM

**5.1 Initial Term; Renewal Terms.** This Agreement shall become effective on and as of the Effective Date and shall continue in effect until the end of the Initial Term, unless terminated earlier pursuant to the terms hereof. Before the termination of the Initial Term, the Parties may extend this Agreement for one or more five (5) year Renewal Terms on mutually agreeable conditions.

**5.2 Change in Law or Termination of Utility's Net Metering Tariffs.** If for any reason the System ceases to qualify for Net Metering under 30 V.S.A. § 8010, PUC Rule 5.100 or the Utility's Net Metering Tariffs or under any other provision of Law, so that Customer cannot receive Net Metering Credits associated with electricity output generated by the System as provided for hereunder, whether by reason of a change in Laws, the Utility's Net Metering Tariffs, the configuration of the System, or otherwise, then this Agreement shall automatically terminate. In the event of such termination Customer's sole liability shall be to pay for Net Metering Credits associated with the electricity output generated by the System accrued and credited to Customer prior to such termination.

### ARTICLE 6 DEFAULT AND TERMINATION

**6.1 Events of Default.** An event of default under this Agreement (an "Event of Default") shall be deemed to exist with respect to a Party (the "Defaulting Party") upon the occurrence of any one or more of the following:

**6.1.1 Payment Defaults.** If the Defaulting Party fails to pay any amount due and payable under this Agreement, other than an amount which is subject to a valid good faith dispute, within ~~thirty-fourty-five~~ (45~~30~~) days of receipt of a payment default notice given by the other Party regarding such non-payment.

**6.1.2 System Owner Defaults.** With respect to the System Owner, if the System Owner fails to maintain Public Utility Commission approval or maintain any other necessary license,



permit or government approval or authorization notwithstanding any Change in Law as outlined in Section 5.2.

**6.1.3. Other Defaults Generally.** If the Defaulting Party fails to substantially perform any other material obligation under this Agreement, and does not cure such failure within sixty (60) days of the date of receipt of notice from the other Party demanding cure; provided that such sixty (60) day cure period shall be extended if and to the extent reasonably necessary to accomplish such cure, but only so long as the Defaulting Party diligently pursues such cure and continues such cure to completion, and provided that such extended period of cure shall not exceed an additional sixty (60) days and provided further that this Section shall not apply to any failure to make payments.

**6.1.4. Failure of Representations and Warranties.** If any representation or warranty of the Defaulting Party shall prove at any time to have been incorrect in any material respect when made, excluding matters outside the control of the Customer, where such representation or warranty remains material to the transactions contemplated hereby, and if the Defaulting Party does not cure the facts underlying such incorrect representation or warranty so that the representation or warranty becomes true and correct within thirty (30) days of the date of receipt of notice from the other Party demanding cure or, if it cannot be reasonably cured within such thirty-day period, such longer period of time as is reasonably necessary to accomplish such cure, provided that the Defaulting Party diligently commences such cure in such period and continues such cure to completion, and provided that such extended period of cure shall be allowed only so long as the failure to complete such cure does not materially adversely affect the other Party.

**6.1.5. Insolvency.** If the Defaulting Party (i) ceases or fails to be solvent, or generally fails to pay, or admits in writing its inability to pay, its debts as they come due, (ii) voluntarily ceases to conduct its business in the ordinary course, (iii) commences any Insolvency Proceeding with respect to itself, or (iv) takes any action to effectuate or authorize any of the foregoing; or in the event that (a) any involuntary Insolvency Proceeding is commenced or filed against the Defaulting Party, or a writ, judgment, warrant of attachment, execution or similar process is issued or levied against a substantial part of the Defaulting Party's properties, and any such proceeding or petition shall not be dismissed, or such writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or fully bonded within thirty (30) days after commencement, filing or levy; (b) the Defaulting Party admits the material allegations of a petition against it in any Insolvency Proceeding, or an order for relief (or similar order under non-U.S. law) is ordered in any Insolvency Proceeding; or (c) the Defaulting Party acquiesces in the appointment of a receiver, trustee, custodian, liquidator, mortgagee in possession (or agent therefore), or other similar person for itself or a substantial portion of its property or business.

**6.1.6 Other Agreements.** Customer will not enter into other agreements that would prevent System Owner from carrying out this Agreement or disqualify the System from the net metering program under 30 V.S.A. § 8010, PUC Rule 5.100 or the Utility's Net Metering Tariff. Nothing herein shall limit Customer from entering into other net metering agreements with respect to additional meters not allocated hereunder. At the time that the System is capable of generating net metering credits, the Customer will direct, or will authorize System Owner's representative to direct, the Utility to assign those net metering credits to Customer's electric accounts.

## 6.2 Remedies.

**6.2.1. Generally.** Upon the occurrence and during the continuation of an Event of Default, the Party not in default shall have the right to pursue any remedy under this Agreement or now or hereafter existing under applicable Law or in equity, including an action for damages, and including termination of this Agreement upon five (5) days prior written notice to the Defaulting Party. Nothing herein, however, shall limit either Party's right to collect damages upon the occurrence of a breach or default by the other Party that does not become an Event of Default. Notwithstanding the above, both parties expressly agree that pre-termination damages shall be limited to one year's equivalent of Net Metering Credit Value (\$ USD) calculated as follows: (corresponding year's Net Metering Credit tariff x previous 12-month production (kwh)) and the only damages payable above and beyond one year's equivalent to Net Metering Credit Value as defined above, shall be the termination damages described in the sections entitled "Customer Termination Damages" and "System Owner Termination Damages".

**6.2.2. Customer Termination Damages.** If System Owner terminates this Agreement as a result of a Customer Event of Default, Customer shall be liable for an amount equal to the lost value of Customer's payment for Net Metering Credits associated with the electricity output generated by the System following such termination for a period of twelve (12) months.

**6.2.3. System Owner Termination Damages.** If Customer terminates this Agreement as a result of System Owner Event of Default, System Owner shall be liable for an amount equal to ten percent (10%) of the value of Net Metering Credits associated with the System electricity output that would have accrued to Customer following such termination for a period of twelve (12) months.

## 6.3 Termination Prior to the Commercial Operation Date.

**6.3.1** Reserved.

**6.3.2. Transfer of Meter Account.** Promptly upon request of System Owner, Customer shall execute such documents, prepared by System Owner as are required by the Utility or required or appropriate under 30 V.S.A. § 8010, 30 V.S.A. § 248 or PUC Rule 5.100.

**6.3.3. Cooperation in Event of Termination.** Promptly upon the termination of this Agreement for any reason, Customer shall execute such documents, prepared by System Owner as are required by the Utility or under 30 V.S.A. § 8010, 30 V.S.A. § 248 or PUC Rule 5.100 in connection with such termination.

## ARTICLE 7 BILLING, PAYMENT AND TAXES

**7.1 Monthly Invoices and Payments for Net Metering Credits Associated with System Electricity Output.** Customer and System Owner will execute the necessary documents to authorize and accomplish delivery of each monthly utility bill for the Customer's accounts with Utility that will receive Net Metering Credits associated with the electricity output generated by the System. System Owner shall provide Customer with an invoice stating the amount of the credits appearing on the Utility invoices and the resulting amounts owed under this Agreement for the previous billing period pursuant to Section 2.3. Customer shall pay the amount

specified in each invoice to System Owner by check no later than ~~thirty-fourty-five (4530)~~ days after the date of the invoice. Nothing in this agreement shall require Customer to pay any tax, fee, or tariff as a result of this Agreement.

**7.2 Late Payment Charges.** Any amounts not paid on or before the date due hereunder shall accrue interest from the date due until the date actually paid at the ~~rate of one percent per month or portion thereof, prime rate of interest published on the due date for a payment under "Money Rates" in the Wall Street Journal, plus two percent (2%) per annum or such lower percentage as required by applicable Laws.~~

## ARTICLE 8 FORCE MAJEURE

**8.1 Effect of Force Majeure.** Except as otherwise expressly provided to the contrary in this Agreement, if any Party is rendered wholly or partly unable to perform its obligations under this Agreement because of Force Majeure, that Party shall be excused from whatever performance is affected by the Force Majeure to the extent so affected, provided that:

**8.1.1.** The Party affected by such Force Majeure, as soon as reasonably practical after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice, fully describing the particulars of the occurrence;

**8.1.2.** The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure; and

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

**8.2 Payment Obligations Not Excused.** Notwithstanding anything in this Article to the contrary, no payment obligation existing as of the date of the event of Force Majeure shall be excused by such event of Force Majeure.

## ARTICLE 9 [RESERVED]

## ARTICLE 10 DISPUTE RESOLUTION

**10.1 Referral to Senior Management.** Any and all disputes arising out of or relating to this Agreement (a "Dispute") shall be resolved exclusively in accordance with this Article. The Parties agree to make a diligent, good faith attempt to resolve any such dispute through negotiation by senior management members (meaning those able to legally bind the Customer and System Owner) before either Party commences other dispute resolution measures. Either Party claiming a Dispute shall provide written notice thereof to the other Party setting forth the details of the Dispute. Any Dispute that is not settled to the mutual satisfaction of the Parties within 60 days shall be subject to mediation between the Parties conducted in ~~Windsor Chittenden~~ County, Vermont, or such other location mutually agreeable to the Parties. The Party initiating the mediation (the "Submitting Party") shall submit such Dispute to mediation by providing a written demand for mediation to the other Party (the "Responding Party"), which demand must include statements of the facts and circumstances surrounding the dispute, the legal obligation breached by the other Party, the amount in controversy and the requested relief,

accompanied by all relevant documents supporting the demand. The mediator selected shall have contract resolution experience and experience in the electric power business and shall not have any current or past substantial business or financial relationships with the Parties or their affiliates. The Dispute will be assigned to a single neutral mediator, who will be chosen by the Parties within forty-five (45) days of submission of the demand on the Responding Party. The cost of any mediator shall be split equally by the parties. If the mediation is not successful within thirty (30) days after commencement of the mediation, notwithstanding the parties' good faith efforts to resolve the Dispute via mediation, then the parties shall be free to pursue any claims they may have through the courts.

The provisions of this Section shall survive any termination of this Agreement and shall apply (except as provided herein) to any Disputes arising out of this Agreement.

**10.2 Continuation of Performance.** During the conduct of dispute resolution procedures, (i) the Parties shall continue to perform their respective obligations under this Agreement, and (ii) neither Party shall exercise any other remedies hereunder arising by virtue of the matters in dispute; provided, however, that nothing in this Section shall be construed to prevent System Owner from suspending performance in the event that Customer has not paid undisputed amounts due and owing to System Owner under this Agreement.

**10.3 Effect of Termination.** No termination of this Agreement following an Event of Default shall relieve the Defaulting Party of its liability and obligations hereunder, and the non-Defaulting Party may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligations under this Agreement.

## ARTICLE 11 COMPLIANCE WITH LAWS

Both Parties shall comply with all applicable Laws as they relate to this Agreement and the performance by the Parties hereunder.

## ARTICLE 12 ASSIGNMENT

**12.1 Generally.** Subject to the Section entitled "Permitted Assignments", this Agreement may not be assigned by either Party without the other Party's written consent, not to be unreasonably withheld.

**12.2 Permitted Assignments.** Notwithstanding the Section immediately above, System Owner may, without Customer's consent, but with written notice to Customer: (1) collaterally assign this Agreement in its entirety or any part of its rights, duties and/or obligations hereunder to System Owner's financing party or (2) assign this Agreement in its entirety or any part of its rights, duties and/or obligations hereunder to (i) an affiliate, (ii) any person or entity succeeding to all or substantially all of the assets or generating assets of System Owner or its affiliates, or (iii) any third party who assumes in writing all of System Owner's obligations hereunder and under the System's certificate of public good. Upon any assignment made in accordance with this Section, System Owner shall deliver to Customer a written notice of such assignment within ten (10) business days of the effective date thereof and all references to the "System Owner" herein shall refer to the assignee. If such assignment is made pursuant to clause (2)(i) or clause (2)(ii), or

with respect to clause (2)(iii) to a third party with technical competency and creditworthiness sufficient to run the System in a manner comparable to System Owner, then from and after the date of such assignment System Owner shall have no continuing obligation or liability under this Agreement for any matters arising on or after the date of such assignment (a "Release"). Said Release does not apply to the collateral assignment of the Agreement. Any assignee permitted under this Section is hereinafter referred to as a "Permitted Assignee." If such assignment is to a Permitted Assignee under Clause (2)(i) or Clause (2)(ii), or if System Owner qualifies for a Release, Clause (2)(iii), then from and after the date of such assignment, System Owner shall have no continuing obligation or liability under this Agreement for any matters arising on or after the date of such assignment. Customer shall execute any consents and other documents and take such acts as are reasonably necessary or required to permit System Owner to assign this Agreement in accordance with the provisions of this Section. Any purported transfer or assignment which does not satisfy all of the requirements of this Section with respect thereto shall be void ab initio and of no force or effect.

### 12.3 Certain Lender Provisions.

(i) With respect to a collateral assignment pursuant to Section 12.2 Clause (1), Customer acknowledges and agrees that, upon receipt of written direction by a System Owner's financing party or any other financing transaction assignee of System Owner (collectively, "Lender"), and notwithstanding any instructions to the contrary from System Owner, Customer will recognize Lender, or any third party to whom Lender has reassigned the rights of System Owner under this Agreement, as the proper and lawful grantee of the Agreement and as the proper and lawful successor to System Owner and fully entitled to receive the rights and benefits of System Owner hereunder so long as Lender (or its assignee) performs the obligations of System Owner hereunder. Customer shall be protected and shall incur no liability in acting or proceeding in good faith upon any such foregoing written notice and direction by Lender which Customer shall in good faith believe (i) to be genuine and (ii) a copy of which has been delivered to System Owner. Customer shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such foregoing notice and direction, but may accept and rely upon them as conclusive evidence of the truth and accuracy of such statements.

(ii) In addition, Customer agrees to notify Lender in writing, at the address to be designated by Lender upon not less than five (5) business days' written notice to Customer prior to any notice by Customer hereunder, of any act of default of System Owner under this Agreement of which Customer has knowledge that would entitle Customer to cancel, terminate, annul, modify the Agreement or otherwise proceed with enforcement remedies against System Owner, and Lender shall have the same amount of time as System Owner but at least thirty (30) days, to cure any default by System Owner under the Agreement; provided that in no event shall Lender be obligated to cure any such default.

## ARTICLE 13 SYSTEM FINANCING

**13.1 System Owner, System Lenders and Financing.** The Parties acknowledge that System Owner may obtain construction and long-term financing or other credit support from lenders or other third parties (the "System Lenders") in connection with the development and ownership of the System

(the "System Financing"), which financing may include the sale of the System to a third party (the "System Buyer"). Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the System Lenders in order to support the System Financing. The Customer will not be required to execute any document that would alter the fundamental risk / benefit allocation reflected in this Agreement as of the Effective Date. The Parties also agree that, in accordance with this Section 13.1, System Owner may assign this Agreement to the System Lenders as collateral to support the System and System Owner's obligations to the System Lenders, as applicable. In connection with any such assignment, Customer agrees to enter into an agreement directly with the System Buyer and/or the System Lenders under which Customer shall consent to such assignment and will agree to other provisions customary and reasonable in the solar photovoltaic electric generation industry for the benefit of the System Buyer and/or the System Lenders (including provisions under which the System Owner and/or the System Lenders or their designees (i) may assume the rights of System Owner under this Agreement; (ii) shall be entitled to receive copies of certain notices hereunder that Customer might provide to System Owner; and (iii) shall have extended cure periods (up to 20 additional days maximum) to cure any defaults by System Owner hereunder. In no event shall such assignment alter the Customer's fundamental risk / benefit allocation reflected in this Agreement as of the Effective Date.

**13.2 Mutual Cooperation.** Customer will execute any document prepared by the System Owner that is reasonably requested by System Owner that is routinely required by lenders, utilities, or other entities involved in the development and financing of solar photovoltaic electric generation systems. These documents may include, but are not limited to, construction financing consent forms, permanent financing consent forms, estoppel certificates, and any amendments reasonably required by System Lenders or due to changes in Laws. The Customer will not be required to execute any document that would alter the fundamental risk / benefit allocation reflected in this Agreement as of the Effective Date. System Owner shall be responsible for, in accordance with the terms of this Agreement, carrying out its duties under and pursuant to 30 V.S.A. § 8010, 30 V.S.A. § 248 and PUC Rule 5.100.

## ARTICLE 14 LIMITATIONS OF LIABILITY

**14.1 No Consequential Damages.** NOTWITHSTANDING ANY OTHER PROVISION HEREOF, EXCEPT TO THE EXTENT THE DAMAGES IN SECTION 6.2.1 MAY BE SO CONSIDERED, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, STATUTORY LIABILITY, OR OTHERWISE, ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY LOSS OF PROFITS, LOSS OF PRODUCTION, EARNINGS, REVENUE, USE, DATA, CONTRACT OR GOOD WILL, EVEN IN SITUATIONS WHERE A PARTY HAS KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES.

**14.2 Parties' Intent.** IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON



REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, AND IRRESPECTIVE OF WHETHER ANY CLAIM HEREUNDER OR RELATING HERETO IS IN CONTRACT, TORT, STRICT LIABILITY, STATUTORY LIABILITY, OR OTHERWISE.

## ARTICLE 15 REPRESENTATIONS AND WARRANTIES

**15.1 General.** Each Party represents and warrants to the other the following:

**15.1.1.** Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate action, and do not and will not violate any Law; and this Agreement is a valid obligation of such Party, enforceable against such Party in accordance with its terms.

**15.1.2.** Such Party has obtained all licenses, authorizations, consents and approvals required by any governmental authority and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all Laws that relate to this Agreement in all material respects.

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

## ARTICLE 16 MISCELLANEOUS

**16.1 Notices.**

**16.1.1.** Any notice, invoice, demand, offer or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be served personally, by reputable express courier service, by first class mail or by e-mail followed with confirmation delivery of hard copy, in each case to the other Party at the address set forth on the Cover Page. All notices shall be effective upon receipt.

**16.1.2.** Each Party shall have the right to change the place to which notice shall be sent or delivered or to specify one address to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party.

**16.2 Consents.** Any consent that is provided for pursuant to this Agreement shall not be unreasonably withheld or delayed.

**16.3 Headings.** The titles or headings of the various sections, articles and paragraphs hereof are intended solely for convenience and ease of reference and are not intended, and are not to be deemed for any purpose, to modify or explain or place any interpretation or construction upon any of the provisions of this Agreement.

**16.4 Governing Law.** This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of

the State of Vermont, excluding any choice of law rules that might direct the application of the laws of a different jurisdiction, irrespective of the places of execution or of the order in which signatures of the Parties are affixed or of the place of performance. Any dispute arising under or in connection with this Agreement shall be subject to the dispute resolution procedures described in Section 10 hereof and, only after such procedures have been exhausted without resolving the dispute the exclusive jurisdiction of the state and/or federal courts located in the State of Vermont. The parties further agree that the venue for any action shall be located in Windsor-Chittenden County, Vermont.

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

**16.6 Relationship of Parties.** No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party and none shall be considered the agent of the other.

**16.7 No Third Party Beneficiaries.** This Agreement is made and entered into for the sole benefit of Customer and System Owner, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

**16.8 Amendments; Waivers.** This Agreement may be modified only by a writing that is signed by both Parties. Any waiver of the provisions of this Agreement must be in writing and will not be implied by any usage of trade, course of dealing or course of performance. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy by Customer or System Owner constitutes a waiver of any other right or remedy contained or provided by Laws. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance hereunder shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

**16.9 Construction of Agreement.** This Agreement is to be construed so as to effectuate the agreements and representations of Customer and System Owner as expressed herein. No provision of this Agreement shall be construed or interpreted for or against either Party because such Party drafted, or caused its legal representative to draft, the provision. The Agreement shall be subject to all applicable Laws.

**16.10 Severability.** If any term, covenant or condition in this Agreement shall, to any extent, be invalid or unenforceable in any respect under applicable Laws, 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 Laws 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.

**16.11 Further Actions.** Each Party shall take all necessary acts and make, execute, and deliver such written instruments as may from time to time be reasonably required to carry out the terms of this Agreement. Customer shall not be required to execute documents or instruments subsequent to the execution of the Agreement that will materially or unreasonably increase Customer's risk or obligations under the Agreement, or result in the waiver of any of Customer's rights or remedies under the Agreement or at law or in equity, or require Customer to give an opinion or make a statement of fact of which Customer does not have actual knowledge.

**16.12 Non-Dedication of Facilities.** Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any governmental agency in a manner contrary to this Agreement. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this Agreement. If System Owner is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests and attempts to ensure that System Owner does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, System Owner shall have the right to terminate this Agreement.

**16.13 Survival.** The provisions of Section 7.2 and ARTICLE 6, ARTICLE 10, and ARTICLE 14 shall survive termination of this Agreement.

**16.14 Project Development Performance Standard.** Subject to an extension of the Expected Commercial Operation Date pursuant to Section 8.1, System Owner shall make diligent, good faith efforts to cause the System to achieve Commercial Operation on or before the Expected Commercial Operation Date.

**16.15 Change in Law.** System Owner is responsible for all risk associated with changes in Laws related to Net Metering Credits during the Term of this Agreement.

**16.16 Reservation of Rights.** Customer does not waive any of the rights, remedies, defenses and immunities afforded Customer, as a municipality, all of which rights, remedies, defenses and immunities Customer hereby reserves.

**16.17 Records and Audits.** System Owner shall maintain operating and maintenance records for the System, subject to the retention requirements hereof, Each Party will keep, for a period of not less than two (2) years after the termination of this Agreement, records sufficient to permit verification of the accuracy of billing statements, invoices, charges, computations and payments for all transactions hereunder. During such period each Party may, at its sole cost and expense, and upon reasonable notice to the other Party, examine the other Party's records pertaining to transactions hereunder during such other Party's normal business hours. Before discarding any records, System Owner shall notify Customer of its intent to do so no later than ninety (90) days before discarding, and Customer may, if it chooses, elect to make copies of any such records at Customer's cost.



**APPENDIX C**

**Expected System Generation & Net Metering Credits Contracted**

Appendix C will be finalized at Commercial Operation Date.

<b>Supply for Appx 95% of Bypassable Charges</b>	<b>\$77,471.87</b>
<b>Supply Allocated</b>	<b>\$77,471.87</b>



**APPENDIX D**

[Reserved]

## APPENDIX E

### Allocation Instructions

The generation of the System will be allocated to the following Group Members according to the percentages in the following table. Each Group Member will determine the meters to which the allocated Net Metering Credits will be applied. The percentages provided below are estimates at the time of the signing of this Agreement only and will be updated if necessary, based on the production estimates in Appendix C available at the Commercial Operation Date.

Site	Account	Appendix E % Allocation
Water Treatment	08290163396	0%
Lagoon Rd	82881000002	51%
10455 Rt 116	14552000003	0.1%
Street Lights	19252000005	0%
106632 RT 116 440-3710-76	28552000003	4.3%
New Fire Station	44552000000	4.3%
CVU RD Pump Reducer	45781000000	1.5%
Pump Sta GBS	54552000009	8.6%
New Police Station	55682169721	0%
MDW Pump	55781000009	16.6%
Rec Dept	61781000007	0.1%
Mechansville Rd	67452000002	13.4%
		100%

**%'s based on 2022 NM credits of:**

**\$77,471.87**

\*\* This distribution is based on the premise that 100% net-metering credits from the Tracker are assigned to the Water Treatment Plant, as opposed to being shared by Water Treatment Plant and Lagoon Road meters.

- (a) During the Term of this Agreement, System Owner shall not add or remove any Meter without the relevant Customer's consent, except upon the occurrence of a Customer Event of Default or upon the termination or expiration of this Agreement.
- (b) System Owner shall not reduce the percentage allocation for an existing customer, except by prior written consent or otherwise in accordance with the terms of this Agreement. However, if and when other customers join and/or leave the Group, designated meters may rise in priority or other meters may be designated below them in priority, without notice or approval being required or given.
- (c) In the event that System Owner determines in good faith that modifying the allocations set forth in this Appendix E and/or the Meters included in the Group pursuant to this Appendix E, would be more beneficial to all customers and to the System Owner, the Parties agree to negotiate in good faith to revise this Agreement so as to maximize the benefits derived by both System Owner and the Customer hereunder, in accordance with the Parties' original intention.

- (d) For the avoidance of doubt, System Owner has complete discretion under this Agreement to add additional Meters to the Group so as to avoid generating more Net Metering Credits than are able to be utilized in any 12-month period.
- (e) System Owner's obligations shall be limited to the allocation of group Net Metering Credits as described above. It shall not be obligated to provide any credits, electricity or payments to a Customer if the System does not produce sufficient electricity to achieve a Group Net Metering Credit for any Consumption Meter during any month.