

July 23, 2014

Mark C. Kalpin

By E-mail and Courier

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Mark D. Marini, Secretary
Department of Public Utilities
One South Station, 5th Floor
Boston, MA 02110

Re: Petition of Syncarpha Solar, LLC – Bolton Orchards Community Solar Project

Dear Secretary Marini:

Enclosed for filing please find the Petition of Syncarpha Solar, LLC for an Exception for the Bolton Orchards Community Solar Project from the Net Metering Regulations, 220 C.M.R. § 18.00, *et seq.*, pursuant to 220 C.M.R. § 18.09(7).

Please also find enclosed a check payable to the Commonwealth of Massachusetts in the amount of \$100 for the filing fee, along with a Notice of Appearance.

Sincerely,



Mark C. Kalpin

Enclosures

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

Petition of Syncarpha Solar, LLC for an Exception)
for the Bolton Orchards Community Solar Project from) D.P.U. 14-____
the Net Metering Regulations, 220 C.M.R. § 18.00, *et seq.*)
pursuant to 220 C.M.R. § 18.09(7))

**PETITION OF SYNCARPHA SOLAR, LLC FOR AN EXCEPTION
FOR THE BOLTON ORCHARDS COMMUNITY SOLAR PROJECT**

Pursuant to 220 C.M.R. § 18.09(7), Syncarpha Solar, LLC (“Syncarpha”) hereby petitions the Department of Public Utilities (“Department”) for a limited exception from the Net Metering Regulations at 220 C.M.R. § 18.00, *et seq.* Specifically, Syncarpha seeks a limited exception for the proposed 2 megawatt (“MW”) Bolton community solar energy project (the “Bolton Community Solar Project” or simply, the “Project”), which will be developed by an affiliate of Syncarpha, from the Department’s determination that a “Net Metering Facility” may not be situated on a parcel of land the current boundaries of which are the result of a subdivision recorded after January 1, 2010.¹

Syncarpha seeks a limited exception from the Single Parcel Rule because the parcel for the Bolton Community Solar Project resulted from a subdivision recorded after January 1, 2010. In this Petition, Syncarpha demonstrates that this subdivision was not for the purpose of obtaining eligibility as a “Net Metering Facility,” and therefore does not disqualify the Project under the Net Metering Regulations at 220 C.M.R. § 18.00, *et seq.*

The Project will be constructed on one of two parcels of the 102+/- acre property located at 125 Still River Road, Bolton, Massachusetts (the “Site”). This parcel (“Lot 2A”) was created pursuant to an Approval Not Required (“ANR”) subdivision determination rendered under the Subdivision Control Law (M.G.L. Ch. 41, Sections 81K - 81GG) by the Town of Bolton

¹ As set forth in the Department’s Order issued in Inquiry Into Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-C (August 24, 2012), pages 21-22 (the “Order”), incorporating the standards adopted by the Massachusetts Department of Energy Resources (“DOER”) in connection with the Solar Carve Out Program that are currently embodied at 225 CMR Section 14.05(9)(a) (the “Single Parcel Rule”).

Planning Board on December 12, 2012.² As demonstrated below, granting the requested limited exception in connection with the development of the Project on Lot 2A is in the public interest, and will help ensure that the Project qualifies as a “Community Shared Solar Generation Unit” under 225 CMR Section 14.00, *et seq.*³

I. THE PETITIONER

Syncarpha is a Delaware limited liability company. An affiliate of Syncarpha – Syncarpha Bolton Community Solar I, LLC (also a Delaware limited liability company) – will develop and own the Project. Syncarpha and its affiliates have been actively engaged in development, installation and operation of solar photovoltaic projects since 2009, and currently own seven operating solar facilities in the United States. In addition to the proposed Bolton Community Solar Project, Syncarpha and its affiliates have developed, installed and commissioned the following four operating projects in Massachusetts:

1. **Project Company** Syncarpha Bolton, LLC
Location Lot 1A, 125 Still River Road, Bolton, Massachusetts 01740 (the 2013 Bolton Project)
System Size Nameplate Capacity (DC): 5.95 MW DC; Estimated 1st Year Energy Production: 7,547,000 kWh
Net Metering Party Town of Chelmsford
2. **Project Company** Syncarpha Stow, LLC
Location 20.1 +/- acres of real property located on the north side of Delaney Street, Stow, Massachusetts 01775

² The ANR determination was issued in connection with the development and construction of a solar energy project in 2013 (the “2013 Bolton Project”) by Syncarpha Bolton, LLC, a former affiliate of Syncarpha. On July 2, 2013, Syncarpha sold the 2013 Bolton Project to an affiliate of Morgan Stanley, Inc. and from that date forward the installation of the 2013 Bolton Project was jointly supervised by Syncarpha and such affiliate until final commissioning.

³ A “Community Shared Solar Generation Unit” is defined in 225 CMR Section 14.00, *et seq.* as “a solar photovoltaic Generation Unit that provides net metering credits to three or more utility accounts, whose participants have an interest in the production of the Generation Unit or the entity that owns the Generation Unit, in the form of formal ownership, a lease agreement, or a net metering contract. No more than two participants may receive net metering credits in excess of those produced annually by 25 kW of nameplate DC capacity, and the combined share of said participants' capacity shall not exceed 50% of the total capacity of the Generation Unit.”

System Size	Nameplate Capacity (DC): Approximately 2.5 MW DC; Estimated 1 st Year Energy Production: 3,165,000 kWh
Power Purchase Counterparty	Hudson Light and Power Department
3. <u>Project Company</u>	Scituate Solar I, LLC ⁴
Location	Landfill located at 280 Driftway, Scituate, Massachusetts
System Size	Nameplate Capacity (DC): 3.01 MW DC; Estimated 1 st Year Energy Production: 3,849,000 kWh
Net Metering Party	Town of Scituate
4. <u>Project Company</u>	Fisher Road Solar I, LLC
Location	King Fisher Road, Dartmouth, Massachusetts 01740
System Size	Nameplate Capacity (DC): 6.0 MW DC; Estimated 1 st Year Energy Production: 7,700,000 kWh
Net Metering Party	Town of Carver and Silver Lake School District

II. SITE HISTORY

The Project Site is owned by the Davis Farms Trust, a Massachusetts Business Trust d/b/a Bolton Orchards (the “Davis Farms Trust”). During the 1950s, the Davis family acquired the Site, and for the past 50+ years has mined gravel, loam, sand and other minerals to supply road and construction sites of Central Massachusetts with raw materials. Members of the Davis family, now organized under the Davis Farms Trust, have owned apple and fruit orchards in Bolton, Massachusetts for more than 75 years, and continue to harvest fruit on approximately 100 acres of land located near the Site. The Davis family offers that fruit for retail sale at their long-standing food and community storefront which is located on the Site at the intersection of Route 117 and Still River Road, Bolton, Massachusetts.

A. 2013 Bolton Project Background

⁴ The Scituate Project was recently nominated as the 2014 Solar Project of Distinction by the leading United States solar industry associations, the Solar Energy Industries Association and the Solar Electric Power Association. *See* <http://www.pvamericaexpo.com/conference-program/project-of-distinction-award>.

Beginning in August 2011, the Davis Farms Trust entered into an agreement with Syncarpha and its local development partner, Renewable Energy Massachusetts LLC, to develop the 2013 Bolton Project as an SREC1-eligible 4.95 MW(AC) solar energy project located on approximately 26 acres of the Site. To facilitate the development of the 2013 Bolton Project, the Davis Farms Trust filed an ANR application with the Bolton Planning Board on December 12, 2012, and upon the ANR's recording with the Plymouth County Registry of Deeds, effected the subdivision of the Site to create Lot 1A, on which the 2013 Bolton Project is located, and the separate 48-acre parcel Lot 2A (also known as the "Remainder Parcel") for future use by the Davis Family. See Appendix I. Following the 2013 Bolton Project's receipt of an SREC1 qualification from the DOER effective June 7, 2013, the 2013 Bolton Project was constructed during the summer of 2013, and was dedicated at a public ceremony on November 14, 2013. The 2013 Bolton Project was interconnected into the National Grid distribution system in December 2013, and currently is one of the largest operating solar photovoltaic installations operating in the Commonwealth.

B. The Use of the Remainder Parcel – Lot 2A

The ANR subdivision filed with the Bolton Planning Board by the Davis Farms Trust in December 2012 was not designed or intended for the purpose of creating a separate parcel of property (Lot 2A) for the purpose of developing an additional solar energy facility. Instead, the Davis Farms Trust submitted the ANR in order to facilitate its use of the remainder of the Site (*i.e.*, Lot 2A) for long-standing Davis Farms Trust commercial and land use interests – all of which are unrelated to contemplated development of solar facilities on Lot 2A.

As noted previously, the Site has been host to two historic activities: (a) the operation of the Bolton Orchards food and storefront (for more than 70 years), and (b) the active mining of gravel and other raw materials from the land (for close to 50 years). The purpose of the ANR was to allow the continuation of the Bolton Orchards store and the gravel mining operations on Lot 2A, while allowing a separate entity, Syncarpha Bolton, LLC, to effectively control Lot 1A in order to fence in, operate and maintain the 2013 Bolton Project on Lot 1A. Absent this subdivision, the David Farms Trust would not have been able to continue its sand/gravel extraction business on Lot 2A, an operation which has continued from the December 2012 ANR

to this day under the direction of the Davis Farms' long-time gravel contractor, Clear Summit-Lancaster Mulch of Lancaster, Massachusetts.

When the Davis Farms Trust leased Lot 1A to Syncarpha Bolton, LLC for the development of the 2013 Bolton Project, the Solar Site Lease Agreement between those parties, dated as of July 16, 2013 (the "Site Lease") made it clear that the Trust planned to continue its mining and gravel excavation activities on Lot 2A. *See Appendix II*, at pages 18-21. This understanding also was reflected in the letter that was submitted by Beals Associates, Inc. (the land use advisor to Syncarpha Bolton, LLC) on December 7, 2012 to the Bolton Planning Board in connection with the ANR subdivision and a related special permit modification request (the "Beals Letter"). *See Appendix III*. The Beals Letter clearly underscores the understanding among all parties (including the Bolton Planning Board) that no decision had been made at the time of the ANR regarding the future use of Lot 2A, other than for continued mining and gravel extraction operations, as well as the operation of the existing storefront. In addition, regardless of any other considerations, some form of a subdivision was required in order to keep the legal liabilities and obligations of the solar facility and the storefront separate, as well as preserve any ability to using Lot 2A for new commercial or light industrial business. *Id.*

Finally, the ANR subdivision allowed for the creation of two parcels of relatively equal size that would be taxed separately by the Town of Bolton according to the different land uses of the respective parcels. This allowed the solar parcel Lot 1A to be taxed by the Town of Bolton independently of Lot 2A.

III. DOER SREC 2 SUBDIVISION AUTHORIZATION RECENTLY GRANTED

Following the successful completion and interconnection of the 2013 Bolton Project, the Davis Farms Trust, as part of its family estate planning, began to evaluate in greater detail the future land use options for Lot 2A. As noted above, the Davis Farms Trust did not envision that Lot 2A would be used for an additional solar generation project – indeed, until the 2013 Bolton Project began commercial operations, the idea of solar lease revenues actually being received was viewed as a potentially risky proposition. After completion of the 2013 Bolton Project, the Davis Farms Trust, perhaps unsurprisingly, developed a different view of solar land use. A second solar lease would add to the financial security of the future apple/fruit harvesting on the Davis Farms Trust's nearby orchards, while also allowing the Bolton Orchards storefront to

continue in operation for many decades to come. As a result, the Davis Farms Trust requested Syncarpha to assist in designing a second, smaller solar energy project on a portion of Lot 2A, while allowing the remaining portion of Lot 2A to remain undeveloped for potential gravel extraction and other land uses (including the storefront).

In anticipation of the April 25, 2014 effectiveness of the solar carve out regulations filed by the Massachusetts Department of Energy Resources (the “DOER”) at 225 CMR Section 14.00 *et seq.* (the “SREC2 Regulations”), the Davis Farms Trust filed a petition on March 5, 2014 with the DOER (the “Petition to DOER “). In the Petition to DOER, the Trust requested confirmation that the Bolton Community Solar Project was allowed to be located on Lot 2A under the SREC2 Regulations, notwithstanding the fact that the Site was subdivided by the ANR on December 12, 2012.⁵ *See Appendix IV.* On July 14, 2014, the DOER concluded that the confirmation requested in the Petition to DOER was appropriate, and that the subdivision was not undertaken by the Davis Farms Trust for the purpose of obtaining eligibility of Lot 2A for the development of a Renewable Generation Unit. *See Appendix V.* Based on and consistent with the DOER’s determination, Syncarpha has now filed this request for a limited exemption with the Department.

IV. REGULATORY RELIEF SOUGHT

In the Order, the Department determined that each “Net Metering Facility” shall be situated on a single parcel of land. *See Order at pages 21-22.* To prevent parties from engaging in “lot-splitting subdivisions” designed to create multiple parcels of land that in turn would support multiple “Net Metering Facilities”, the Department’ Order adopted the Single Parcel Rule articulation in the SREC Regulations in connection with the Department’s definition of ‘facility’ for purposes of the Net Metering Regulations. *See Order at page 22. See also 225 CMR Section 14.05(4)(a).*

Pursuant to 220 C.M.R. § 18.09(7), Syncarpha requests that the Department grant a

⁵ Specifically, the Davis Farms Trust requested an exception from the provisions of 225 CMR Section 14.05(4)(a) (the so-called “Single Parcel Rule”), the relevant portion of which provides: “For any parcel of land for which a Solar Carve-Out II Generation Unit has submitted a Statement of Qualification Application, if it’s current boundaries are the result of a subdivision recorded after January 1, 2010 (changed in latest draft regulations from January 1, 2014), the Owner or Operator shall demonstrate to the Department that the subdivision was not for the purpose of obtaining eligibility as a Solar Carve-Out II Renewable Generation Unit. If the Owner or Operator fails to make such a showing to the Department, the six MW limit shall apply to the metes and bounds of the parcel as recorded prior to the subdivision.”

limited exception from the Single Parcel Rule in order to permit the Bolton Community Solar Project to be developed and installed on a portion of Lot 2A as an SREC2 eligible project.

IV. STANDARD FOR GRANTING AN EXCEPTION

Under the Department's Net Metering Regulations, "[t]he Department may, where appropriate, grant an exception from any provision of 220 C.M.R. 18.00." 220 C.M.R. § 18.09(7). The Department has applied a good cause standard in considering exceptions or waivers from its regulations in many instances.⁶ In this regard, the Department previously has found it appropriate to apply the good cause standard in considering an exception from 220 C.M.R. § 18.00 et seq. See *Petition of Borrego Solar Systems, Inc.*, D.P.U. 12-80 (Nov. 27, 2012) at 5-6. In determining what constitutes good cause, the Department has stated:

“Good cause is a relative term and it depends on the circumstances of an individual case. Good cause is determined in the context of any underlying statutory or regulatory requirements, and is based on a balancing of the public interest, the interest of the party seeking an exception and the interests of any other affected party. *Boston Edison Company*, D.P.U. 90-335-A at 4 (1992).”

V. LEGAL ARGUMENT

The exception requested by Syncarpha is consistent with the statutory intent underlying the Green Communities Act (“GCA”),⁷ the regulatory intent behind the Department’s Order and implementing regulations, and is in the public interest. Accordingly, Syncarpha submits that good cause exists for the Department to grant Syncarpha’s request.

The Order’s adoption of the Single Parcel Rule embodied at 225 C.M.R. § 14.05(4)(a) of the SREC2 Regulations provides an express authorization for the Department to grant exceptions:

“...property boundaries can change over time for legitimate reasons and we are inclined to allow such changes without eliminating a parcel’s eligibility for net metering as long as the subdivision is not for the purpose of net metering eligibility. Therefore, any customer who seeks to have new parcel boundaries recognized for net metering must file a request with

⁶ See 220 C.M.R. § 1.01(4) (exception from Procedural Rules); 220 C.M.R. § 11.08 (exception from Rules Governing the Restructuring of the Electric Industry); 220 C.M.R. § 14.07 (exception from regulations governing The Unbundling of Services Related to the Provision of Natural Gas); 220 C.M.R. § 17.09 (exception from the regulations governing Long-Term Contracts for Renewable Energy); 220 C.M.R. § 19.06 (exception from the regulations governing Standards for Emergency Preparedness and Restoration of Service for Electric Distribution and Gas Companies); and 220 C.M.R. § 20.18 (exception from the regulations governing Steam Distribution Companies).

⁷ An Act Relative to Green Communities, St. 2008, c. 169.

the Department...”⁸

See Order at page 22.

As an initial matter, Syncarpha is respectful of the Department’s stated desire to avoid creating exemptions that might diminish the clarity and certainty that the Department intended to create with the Order. However, Syncarpha respectfully asserts that granting a limited exception from the Single Parcel Rule in the instance of the Bolton Solar Community Project is consistent with the underlying goals and policy giving rise to the Single Parcel Rule.

The Single Parcel Rule was adopted under the Order to prevent “artificial and unfair manipulations of the regulatory system” that might otherwise result from parties seeking subdivision of land into multiple parcels as the first step to creating multiple solar facilities (one per subdivided parcel). *See Order at page 22.* Based upon numerous comments received by the Department incident to the Order, “lot-splitting” was a major concern to the Department when it adopted the Single Parcel Rule. *See Order at pages 8-9.* However, as noted above, the Department recognized that where a solar facility is proposed to be situated on a parcel resulting from a subdivision occurring after January 1, 2010 (as is the case here) that demonstrably was not for the purpose of obtaining Net Metering Facility qualification, an exception to the Single Parcel Rule should be granted. *See Order at page 22.*

For all the reasons stated in Section II above, the subdivision granted on December 12, 2012 was neither planned nor designed to support the development of an additional solar generation project on Lot 2A, let alone to obtain qualification of the Bolton Solar Community Project for Net Metering Facility status or SREC2 Renewable Generation Unit status. To the contrary, this subdivision was undertaken to preserve the ability of the Davis Farms Trust to use the portion of the Site that was not occupied by the 2013 Bolton Solar Project for commercial and retail activities historically undertaken at the Entire Site. It was not until 2014, two years after initial submission of the subdivision plan to the Town of Bolton,⁹ that the Davis Farms Trust requested Syncarpha to develop plans for the Bolton Community Solar Project on Lot 2A.

Finally, the granting of the requested exemption is in the public interest. The recently published SREC2 Regulations and the New Proposed Solar Legislation recently filed by the

⁸ The parallel provisions of the SREC2 Regulations contain the identical reservation for the DOER to grant exceptions to the Single Parcel Rule. *See 225 CMR Section 14.05(9)(a).*

⁹ *See Appendix III.*

DOER on or about June 6, 2014 (the “2014 Solar Energy Bill”) each provide heightened benefits and a clear policy preference for the development of community solar that provide widespread net metering and other benefits to smaller electricity customers.¹⁰ The Bolton Community Solar Project does just that: small retail customers of National Grid, such as Bolton Orchards and other small commercial and residential users, will be able to realize solar net metering benefits without the burdens and capital requirements of developing, hosting or owning a solar generation facility. As the Department is aware, the economies of scale generally allow the developers of larger net metering projects to offer larger energy savings (in terms of the “price” paid for each net metering credit) to purchasers of net metering credits. By allowing the development of the 2 MW Bolton Community Solar Project to proceed, the Department will help ensure that these enhanced benefits are realized by small retail electric consumers (who otherwise would have to expend significant capital to install a much smaller facility on their home or business rooftop).

Syncarpha realizes that some opponents of this request may claim that allowing this limited exception could eliminate the opportunity for other net metering projects to be constructed. Syncarpha understands that the 2014 Solar Energy Bill would, if adopted by the Legislature, eliminate the preexisting net metering “caps” altogether and would therefore eliminate all competition for net metering assurance spaces. In addition, since the Bolton Community Solar Project would qualify as a “private cap” project, it would not consume or eliminate any of the more valuable space under the cap for public net metering projects. As a result, the proposed Bolton Community Solar Project will be in the public interest.

VI. CONCLUSION

WHEREFORE, for the above stated reasons, Syncarpha respectfully requests that the Department grant Syncarpha a limited exception from the regulations at 220 C.M.R. § 18.00, *et. seq.*, and exempt the Bolton Community Solar Project from the application of the Single Parcel Rule established in the Order.

¹⁰ As noted in a very recent *New York Times* article, community solar, such as the Community Solar Shared Generation Unit category created under Massachusetts law, allows “the estimated 85 percent of residential customers who can neither own nor lease systems because their roofs are physically unsuitable for solar or because they do not control them — like renters and people living in large apartment buildings”. “Buying Into Solar Power, No Roof Access Needed”, *New York Times*, June 19, 2014.

Respectfully submitted,

Syncarpha Solar, LLC

By its attorney,

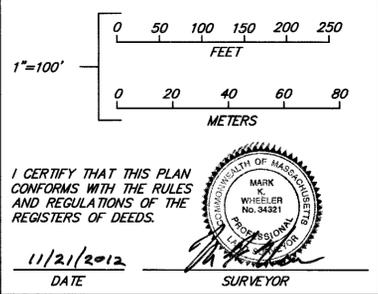
A handwritten signature in black ink, appearing to read "Mark C. Kalpin", with a long horizontal flourish extending to the right.

Mark C. Kalpin
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109
(617) 526-6176

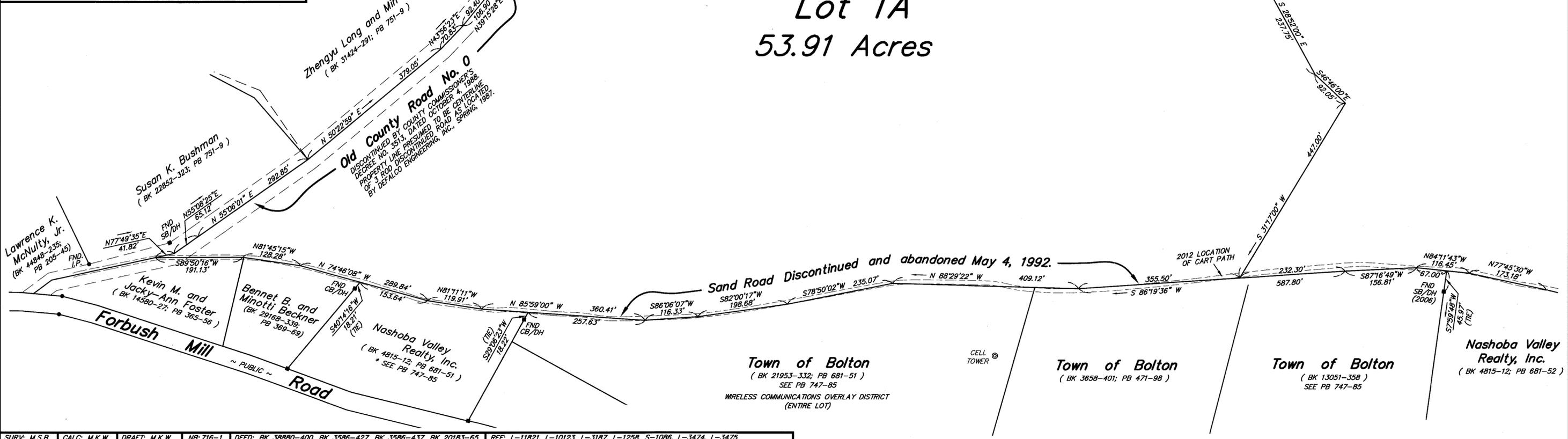
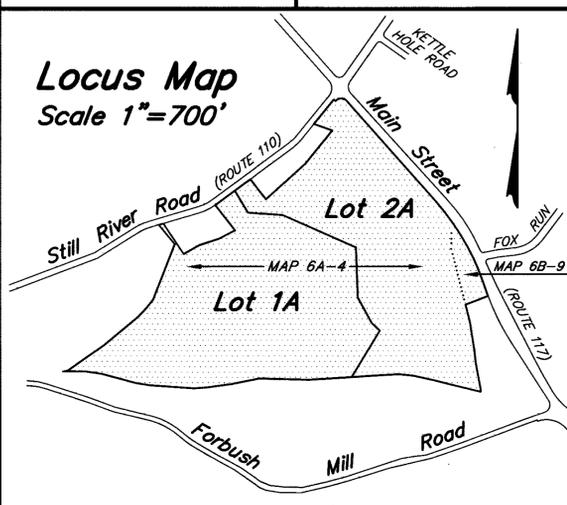
Dated: July 23, 2014

APPENDICES

- I. Plan of Land in Bolton, Mass owned by Davis Farms Trust (ANR Plan, 12/12/12)
- II. Solar Site Lease Agreement by and between Davis Farms Trust and Syncarpha Bolton, LLC, dated as of July 16, 2013
- III. Letter from Beals Associates to the Bolton Planning Board (12/7/12)
- IV. Petition of Bolton Orchards to the Massachusetts DOER regarding Solar Project Eligibility, dated March 4, 2013
- V. Letter of the Massachusetts DOER regarding Solar Project Eligibility (7/14/14)



FOR REGISTRY USE ONLY



PLAN OF LAND IN
Bolton, Mass.
OWNED BY
Davis Farms Trust
SCALE: 1" = 100' NOVEMBER 2012
David E. Ross Associates, Inc.
CIVIL ENGINEERS - LAND SURVEYORS
ENVIRONMENTAL CONSULTANTS
P.O. BOX 368-111 FITCHBURG RD.-AYER, MASS. 01432
(TEL. NO. 978-772-6232)
JOB NO. 27799 SHEET 2 OF 2 PLAN NO. L-11821A

Bolton Planning Board
APPROVAL UNDER SUBDIVISION CONTROL LAW NOT REQUIRED.
C 41 S 81-P DATE: 12-12-11

[Signatures]

Zoning District: Residential

Lot 2A
48.00 Acres

SOLAR SITE LEASE AGREEMENT

This Solar Site Lease Agreement (the "Lease") is made as of the 16th day of July, 2013 (the "Effective Date") by and between DAVIS FARMS TRUST, a Massachusetts Business Trust d/b/a Bolton Orchards (together with its successors and permitted assigns, the "Lessor"), and SYNCARPHA BOLTON, LLC, a Delaware limited liability company (together with its successors and permitted assigns, "Lessee"). For the convenience of the Parties, Lessor and Lessee agree that even though Lessor is an individual, the pronoun "it" and its related terms ("its") shall be used with reference to the Lessor.

RECITALS

WHEREAS, Lessee desires to lease the Property (as defined below), as that term is defined below, from Lessor in accordance with the terms and conditions hereinafter set forth;

WHEREAS, Lessor agrees to lease the Property to Lessee in accordance with the terms and conditions hereinafter set forth;

WHEREAS, Lessor and Lessee have caused the Memorandum of Lease (as defined below) to be recorded with the Land Records (as defined below) as of the Effective Date;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, a portion of the Owner's Entire Property (defined below) consisting of approximately 53.91 acres of real property comprised of one parcel of land located at 125 Still River Road, Bolton, Massachusetts 01740, more particularly described and depicted as Lot 1A on Exhibit A hereto and made a part hereof (the "Property"). The Property includes, without limitation, all air space, light, and any other similar effects attributable to such real property. The Property is a portion of a larger parcel of real property owned by Lessor and more particularly described and depicted as Lot 1A and Lot 2A on Exhibit B attached hereto and made a part hereof (the "Owner's Entire Property").

ARTICLE 1 DEFINITIONS.

In addition to the terms defined in the introductory paragraph hereof and in the Recitals set forth above, the following terms shall have the indicated meanings:

1.1 "Affiliate" means, when used with reference to a specified Person, any Person directly or indirectly controlling, controlled by, or under common control with the specified Person.

1.2 "Alternate Removal Security" shall have the meaning set forth in Article 24.

1.3 "Applicable Requirements" means, with respect to any Governmental Authority all laws, rules, regulations, ordinances, and directives, orders, decrees, judgments, decisions, certificates, injunctions, registrations, licenses, Permits, authorizations, guidelines, governmental approvals, consents or requirements of such Governmental Authority now in effect or which may hereafter come into effect.

1.4 "Additional Rent" has the meaning set forth in Section 9.2(a).

1.5 "Assignee" has the meaning set forth in Section 20.1(b).

1.6 "Assign" or "Assignment" has the meaning set forth in Section 20.3.

1.7 "Base Rent" has the meaning set forth in Section 9.1.

1.8 “CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.) or any regulations promulgated under CERCLA.

1.9 “Commencement Date” has the meaning set for in Section 8.3.

1.10 “Commercial Operation Date” shall mean and shall be deemed to have occurred when: (a) the Solar Power Facilities have been completely installed, are mechanically and electrically sound, and are ready for start-up and commercial operation; (b) the mechanical tests relating to completion of the Solar Power Facilities have been conducted and the requirements with respect thereto have been satisfied in the reasonable discretion of the Lessee; (c) all Interconnection Facilities relating to the Solar Power Facilities are completed and ready for commercial operation; (d) the Solar Power Facilities are registered and approved under the MASS SREC Program for generation of SRECs and an SREC Account therefor has been established by Lessee; and (e) the Solar Power Facilities comply with all applicable Governmental Approvals and has passed all required inspections by any applicable Governmental Authority.

1.11 “Commercial Operation Date Notice” shall have the meaning set forth in Section 8.5.

1.12 “Creditworthy” means a Person that has a net worth which equals or exceeds the net worth of Lessee measured at the time of the applicable assignment or sublease arising under Article 20.

1.13 “Default Rate” means a rate of interest equal to six percent (6%) plus the prime rate published from time to time in The Wall Street Journal or its successor publication, per annum.

1.14 “Easements” means the easements granted pursuant to Section 7.2 effective on the Effective Date substantially in the form attached as Exhibit F annexed hereto.

1.15 “Environmental Attributes” has the meaning set forth in Section 2.6.

1.16 “Environmental Laws” means and includes any federal, state or local laws, ordinances, statutes, codes, rules, regulations, orders or decrees applicable to the Property or the Property now or hereinafter in effect relating to: (a) pollution; (b) the protection or regulation of human health, natural resources or the environment; (c) the treatment, storage or disposal of Hazardous Substances; or (d) the emission, discharge, release or threatened release of Hazardous Substances into the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. 2601, et seq.; the Clean Air Act, 42 U.S.C. 7401, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq.; and the Occupational Safety and Health Act, 29 U.S.C. 651 et seq. and any other Applicable Requirements that govern: (a) the existence, removal, or remediation of Hazardous Substances on real property; (b) the emission, discharge, release, or control of Hazardous Substances into or in the environment; or (c) the use, generation, handling, transport, treatment, storage, disposal, or recovery of Hazardous Substances, each as amended, and together with all applicable regulations, orders, and binding guidance documents issued thereunder.

1.17 “EPC Contract” means an engineering, procurement and construction agreement entered into by the Lessee with respect to the development, installation and commissioning of the Solar Power Facilities.

1.18 “Event of Default” has the meaning set forth in Section 23.1.

1.19 “First Renewal Term” shall have the meaning set forth in Section 8.1.

1.20 “Force Majeure” means, when used in connection with the performance of a Party’s obligations under this Lease, any act, condition or event (to the extent not caused by such Party or its Affiliates, agents, subcontractors or employees) which is unforeseeable, or being foreseeable, unavoidable

and outside the reasonable control of the Party which invokes it, and which renders said Party unable to comply totally or partially with its obligations under this Lease. Without limiting the meaning of the preceding sentence, the following events constitute Force Majeure to the extent that they render a Party unable to comply totally or partially with its obligations under this Lease:

(a) war (whether or not war is declared), hostilities, revolution, rebellion, insurrection against any Governmental Authority, riot, terrorism, acts of a public enemy or other civil disturbance;

(b) acts of God, including but not limited to, weather outside of the local norm (such as storms, floods, lightning, earthquakes, hailstorms, ice storms, tornados, hurricanes, landslides, and fires.), and objects striking the earth from space (such as meteorites);

(c) acts of any Governmental Authority that materially restrict or limit Lessee's access or any Lessee Access Parties' access to the Property or its activities at the Property; and

(d) Nationwide or Statewide industrial action not specific to the Solar Power Facilities or caused by Lessee.

Notwithstanding anything to the contrary in this definition, the term Force Majeure shall not include any of the following:

(i) any act, event or condition caused by: the negligence or willful misconduct of, or breach of this Lease by, the Party or any of its agents or suppliers or subcontractors claiming such act, event or condition as a Force Majeure; and

(ii) any strike, walkout, or other industrial or labor action caused by any Lessee Access Parties.

1.21 "GAAP" means generally accepted accounting principles in the United States, consistently applied throughout the specified periods.

1.22 "Generating Units" shall have the meaning set forth in the definition of Solar Power Facilities.

1.23 "Governmental Approvals" means all authorizations, consents, decisions, licenses, certifications, grants, registrations, exemptions, permits, certificates and approvals from any Governmental Authority.

1.24 "Governmental Authority" means any foreign, national, federal, state, county, city, regional or local government, any political subdivision thereof, or any governmental, quasi-governmental, regulatory, judicial or administrative agency, authority, commission, board or similar entity having jurisdiction over the performance of Operations, the Solar Power Facilities or its operations, the Property or otherwise over any Party.

1.25 "Green Tag Reporting Rights" has the meaning set forth in Section 2.6.

1.26 "Hazardous Substances" means and includes any substance that is or contains (a) any "hazardous substance" as now or hereafter defined in § 101(14) of CERCLA; (b) any "hazardous waste" as now or hereafter defined in RCRA; (c) any toxic substance now or hereafter regulated by TSCA; (d) petroleum, petroleum by-products, gasoline, diesel fuel, or other petroleum hydrocarbons; (e) asbestos and asbestos-containing material, in any form, whether friable or non-friable; (f) polychlorinated biphenyls; (g) lead and lead-containing materials; (h) any additional substance, material or waste (i) the presence of which on or about the Property (A) requires reporting, investigation or remediation under any Environmental Laws, (B) causes or threatens to cause a nuisance on the Property or any adjacent area or property or poses

or threatens to pose a hazard to the health or safety of persons on the Property or any adjacent area or property, or (C) which, if it emanated or migrated from the Property, could constitute a trespass, or (ii) which is now or is hereafter classified or considered to be hazardous or toxic under any Environmental Laws.

1.27 “Holdover Rent” has the meaning set forth in Section 9.3.

1.28 “Improvements” means all facilities, apparatus, systems, structures, equipment, machinery, fencing, materials and personal property of every kind and character that are constructed, installed and/or placed on the Property, or on, above or under the Property by or on behalf of Lessee during the Lease Term.

1.29 “Initial Lease Term” shall have the meaning set forth in Section 8.1.

1.30 “Interconnection Facilities” shall have the meaning set forth in the definition of Solar Power Facilities.

1.31 “Knowledge” with respect to the Lessor, the extent of the actual and current knowledge of Robert S. Davis, as of the Effective Date, without any duty of investigation. No knowledge of any Person shall be imputed to Robert S. Davis.

1.32 “Land Records” means the Official Land Records of the County of Worcester, Commonwealth of Massachusetts.

1.33 “Lease” shall have the meaning set forth in the preamble.

1.34 “Lease Term” shall have the meaning set forth in Section 8.1.

1.35 “Leasehold Mortgagees” has the meaning set forth in Section 20.1.

1.36 “Lender” shall have the meaning set forth in Section 20.1.

1.37 “Lessee” shall have the meaning set forth in the preamble.

1.38 “Lessee Access Parties” means the Lessee and its contractors, consultants and Lenders and other financing sources and each of their respective agents, representatives, subcontractors, consultants, employees and invitees.

1.39 “Lessee Indemnified Party” has the meaning set forth in Section 17.2.

1.40 “Lessor” shall have the meaning set forth in the preamble.

1.41 “Lessor Default” has the meaning set forth in Section 23.3.

1.42 “Lessor Indemnified Party” has the meaning set forth in Section 17.1.

1.43 “Liabilities” has the meaning set forth in Section 17.1.

1.44 “MASS RPS Standards” means the rules and regulations promulgated pursuant to Renewable Portfolio Standards (M.G.L. 25A, § 11F) as in effect January 7, 2011 upon publishing in the Massachusetts registrar, along with any orders duly issued thereunder on or before the Effective Date.

1.45 “MASS SREC Program” means the accounting system administered by the Massachusetts Department Of Energy Resources (“MA DOER”) SREC Program (or any successor delivery system or

mechanism), which includes a generation information database, accounting and certificate system operated by or for the MA DOER, that accounts for the generation attributes, ownership and trading of SRECs.

1.46 “MASS SREC Program Administrator” means the person designated by the MA DOER to facilitate SREC transactions.

1.47 “Memorandum of Lease” shall mean the Memorandum of Lease attached hereto as Exhibit D.

1.48 “Mining Site Access Road” shall have the meaning set forth in Section 14.6.

1.49 “Mortgage” shall have the meaning set forth in Section 6.2.

1.50 “Operating Year” shall mean the period from the Rent Commencement Date to the date that is twelve (12) months thereafter, and for the remainder of the Lease Term, each subsequent twelve (12) month period thereafter.

1.51 “Operations” shall have the meaning set forth in Section 2.1.

1.52 “Owner’s Entire Property” shall have the meaning set forth in the fourth paragraph of the Recitals.

1.53 “Party” and “Parties” shall mean the Lessee and/or the Lessor.

1.54 “Permits” shall mean applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, approvals, registrations, orders, filings, entitlements and similar requirements of whatever kind and however described which are required to be obtained or maintained by any Person with respect to the development, siting, design, acquisition, construction, equipping, financing, ownership, possession, shakedown, start-up, testing, operation or maintenance of the Solar Power Facilities, the production and delivery of energy and Environmental Attributes, or any other transactions or matter contemplated by this Lease (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

1.55 “Person” means any individual, entity, corporation, general or limited partnership, limited liability company, joint venture, estate, trust, association or other entity or governmental authority.

1.56 “Property” shall have the meaning set forth in the fourth paragraph of the Recitals.

1.57 “Property Subject to RFR” shall have the meaning set forth in Article 25.

1.58 “RCRA” means the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 et seq.) or any regulations promulgated under RCRA.

1.59 “Recognition Year” shall have the meaning set forth in Section 9.2(a).

1.60 “Removal Obligations” means removal from the Property of all Improvements, and any personal property owned or leased by Lessee.

1.61 “Removal Period” means 120 days after the termination or expiration of this Lease.

1.62 “Renewable Energy Incentives” has the meaning set forth in Section 2.6.

1.63 “Rent” means Base Rent and Additional Rent due and payable in accordance with the provisions of this Lease.

1.64 “Rent Commencement Date” means the sooner to occur of (i) the first day of the month immediately following the month in which the Commercial Operation Date occurs, or (ii) the first day of the month immediately following the six (6) month anniversary of the Effective Date.

1.65 “Renewal Term” means the First Renewal Term and/or the Second Renewal Term.

1.66 “Second Renewal Term” shall have the meaning set forth in Section 8.1.

1.67 “Solar Power Facilities” means: (a) solar modules, solar inverter systems and solar power generating facilities (including associated racking, foundations, support structures, braces and other structures and equipment), and other power generation facilities to be operated in conjunction with solar array installations, in each case of any type or technology (collectively, “Generating Units”); (b) electrical transmission facilities, including overhead and underground transmission, electrical distribution and collector lines, wires and cables, conduit, footings, foundations, poles, substations, interconnection and/or switching facilities, circuit breakers, transformers, transformer and inverter pads, and energy storage facilities (collectively, “Interconnection Facilities”); (c) overhead and underground control, communications and radio relay systems and telecommunications equipment, including fiber, wires, cables, conduit and poles; (d) meteorological stations and solar energy measurement equipment; (e) erosion control facilities; (f) control buildings, control boxes and computer monitoring hardware, maintenance and storage units; (g) utility installations; (h) laydown areas and maintenance yards; (i) signs; (j) fences and other safety and protection facilities; and (k) other improvements, facilities, appliances, apparatus, materials, articles, components, raw materials, supplies, parts, systems, structures, machinery and equipment in any way related to or associated with generation, conversion, storage, switching, metering, step-up, step-down, transmission, distribution, conducting, wheeling, sale or other use or conveyance of electricity.

1.68 “SREC” means Solar REC as defined in the MASS RPS Standards.

1.69 “SREC Account” means, for either Party, the account established, or to be established, by the MASS SREC Program Administrator for such Party and into which such Party’s SRECs shall be allocated and credited.

1.70 “SREC Attribution Year” shall have the meaning set forth in Section 9.2.

1.71 “Sublessee” has the meaning set forth in Section 20.1.

1.72 “Taxes” has the meaning set forth in Section 15.1.

1.73 “Transmission Facilities” means underground or overhead electric transmission and distribution lines, wires, poles, towers, electrical transformers, substations, interconnection and switching equipment and facilities, electricity converters, electricity and energy storage equipment and facilities, related foundations, and pads and footings, access roads, and operation and maintenance facilities, and other related facilities and equipment, for the collection, transmission, distribution, storage and sale of electric power generated on the Property and on other land.

1.74 “TSCA” means the Toxic Substances Control Act, as amended (15 U.S.C. § 2601 et seq.) or any regulations promulgated under TSCA.

ARTICLE 2 PURPOSE OF LEASE

2.1 Pursuant to this Lease, and subject to the provisions of Article 14 (Mining Activities) Lessee shall have possession of the Property during the Lease Term for the following purposes (collectively, “Operations”):

(a) To use, convert, maintain and capture the free and unobstructed flow of solar insolation (sunlight) over and across the Property and to convert solar energy derived therefrom into electrical energy, and collecting and transmitting the electrical energy so converted;

(b) Constructing, reconstructing, erecting, installing, improving, replacing, relocating and removing from time to time, and using, maintaining, repairing, operating and monitoring the Solar Power Facilities;

(c) Vehicular and pedestrian ingress, egress and access to and from Solar Power Facilities on, over and across the Property by means of the Easements;

(d) Removing, trimming, pruning, topping or otherwise controlling the growth of any tree, shrub, plant or other vegetation on the Property that intrudes (or upon maturity could intrude) into the Property or that could obstruct, interfere with or impair the Solar Power Facilities or the use of the Property intended by Lessee hereunder;

(e) An exclusive right to extract soil samples, perform geotechnical tests, and conduct such other tests, studies, inspections and analysis of or on the Property as Lessee deems necessary, useful or appropriate; provided, however, that Lessee shall, prior to any such extraction, performance or conduct, send at least twenty (20) day's prior written notice to Lessor specifying the proposed timing, depth, extent, number of such extractions or other invasive tests, and purpose of such proposed activities;

(f) Drilling, re-drilling, maintaining, repairing, using, operating, improving, replacing, relocating, plugging and abandoning water wells, and pumping and using water as needed in connection with one or more Solar Power Facilities; provided, however, that (1) Lessee shall, prior to any such activities, send at least twenty (20) day's prior written notice to Lessor specifying the proposed activities and purpose of such proposed activities and (2) Lessor must consent, in writing, to any such notice, proposed activities prior to Lessee engaging in any such activities; and

(g) Undertaking any other activities that Lessee or any third party authorized by Lessee determines are necessary, helpful, appropriate or convenient in connection with, incidental to or to accomplish any of the foregoing purposes or for the benefit of Operations, including any and all other activities related to, without limitation, necessary or contemplated by an EPC Contract or interconnection agreement entered into by Lessee, and all contracts or documents entered into in connection therewith, and including conducting surveys and environmental, biological, cultural and other tests and studies. Without limiting the generality of the foregoing, the Parties recognize that (a) power generation technologies are improving at a rapid rate and that Lessee may (but shall not be required to) from time to time replace existing Generating Units on the Property with newer model Generating Units and (b) the Operations may be accomplished by Lessee, or one or more third parties authorized by Lessee; provided, however that the use of such third parties shall not relieve Lessee of its obligations and responsibilities hereunder, and Lessee shall be responsible for the actions and performance of such third parties.

(h) Notwithstanding any provision of this Lease to the contrary, Lessor shall have the right to pass and repass over the Mining Site Access Road as set forth in Section 14.6 on foot and with vehicles for the purpose of gaining access to and egress from the adjacent public way and the portion of Owner's Entire Property that is not included in the definition of the Property to Mining Location A.

2.2 Exclusive Rights. Subject to the provisions of Section 2.1, Lessor acknowledges and agrees that Lessee shall have the exclusive right to develop and use the Property for Operations and to convert all of the solar resources of the Property and that Lessor shall not sell, partition, finance, mortgage, assign, or encumber the Property in any way that could materially interfere with the rights granted to the Lessee Access Parties hereunder, except as provided for in Article 24 and Article 25; provided, however, that nothing expressly or impliedly contained in this Lease or represented to Lessor shall be construed as requiring Lessee to generate or sell any minimum or maximized amount of electrical energy from the Property.

2.3 Access.

(a) During the Lease Term, and subject to the provisions of Section 2.1 and this Section 2.3(a), Lessor acknowledges and agrees that: (a) Lessor shall grant the Lessee Access Parties rights of ingress and egress to and from the Property; and (b) Lessor shall not grant any rights in the Property purporting to permit Lessor or any other Person to: (i) conduct Operations on the Property in derogation of Lessee's sole and exclusive right to conduct Operations on the Property; or (ii) do or perform any other act relating to, nor undertake any other use of, the Property, all in accordance with and subject to the provisions of this Lease and the Easements. All Lessee Access Parties, without exception, shall provide Lessor prior to gaining ingress to the Property under this Lease (and one each year thereafter) with evidence of Commercial General Liability Insurance on an occurrence basis, including property 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, which insurance shall name Lessor as a named insured.

(b) Without the prior written consent of Lessee, Lessor shall not: (i) waive any right available to Lessor or grant any right or privilege subject to the consent of Lessor by reason of any Applicable Requirements or contract with regard to the Property, including without limitation any environmental regulation, land use ordinance or zoning regulation, with respect to setback requirements, noise limitations or other restrictions and conditions respecting the placement of Solar Power Facilities on parcels adjacent to or in the vicinity of the Property that are not owned by Lessor; or (ii) grant, confirm, acknowledge, recognize or acquiesce in any right claimed by any other Person to conduct Operations on the Property (or any other form of activity or use of any kind) whether arising in judicial proceedings or otherwise and Lessor agrees to give Lessee notice of any such claims or proceeding with respect to such claims and to cooperate with Lessee in resisting and disputing such claims. Lessor shall cooperate with Lessee Access Parties and each Sublessee in connection with its Operations unless and until an Event of Default by Lessee takes place and, upon request by Lessee, shall make available to Lessee copies of all reports, agreements, surveys, plans and other records of Lessor that relate to the feasibility of solar energy development on the Property.

(c) During the Lease Term, Lessee acknowledges and agrees that Lessee shall grant the Lessor, members of its Board of Directors, its officers, delegated representatives, consultants and agents rights of entry onto the Property at reasonable times and upon reasonable prior written notice to Lessee in order to inspect the Property and the Solar Power Facilities. In connection therewith, Lessor hereby acknowledges and agrees as follows: (1) the Solar Power Facilities are electricity generating facilities and may be hazardous to Persons unaccustomed to being in or around such facilities; (2) the Solar Power Facilities are precisely engineered facilities and may easily be disturbed by conduct or activities of Persons coming into proximity therewith; (3) in the course of conducting any such inspection, Lessor shall not disturb, interfere with, disrupt or damage, in whole or in part, any of the Solar Power Facilities, Interconnection Facilities or Transmission Facilities; and (4) Lessor, on its behalf, and on behalf of any such Board Member, officer, consultant, representative or agent releases and discharges Lessee from any and all liability of any kind for loss or injury suffered by Lessor or any such Person which shall occur during any such inspection, it being acknowledged and agreed as of the Effective Date that Lessor shall bear all risks associated with such inspections. Lessor also acknowledges and agrees that any inspection undertaken pursuant to this Section 2.3 must be conducted by Lessor, its Board Members, officers, consultants, representatives or agents in the company of a designated representative of Lessee. Lessor shall provide Lessee with at least seven (7) days' notice in writing of a proposed inspection date and time. If Lessee chooses not to attend the inspection, then Lessor may conduct the inspection in the absence of a designated representative of Lessee. Lessor may also conduct an inspection without notice and in the absence of a designated representative of Lessee in the event of an emergency, provided that Lessor provides notice to Lessee of the occurrence of the inspection and the nature of the emergency promptly after the inspection.

2.4 Security. Lessee, at its expense, shall be solely responsible for the security and protection of the Solar Power Facilities, including the Interconnection Facilities, once installed on the Property.

2.5 Third-Party Interconnection. Lessor acknowledges that Lessee may be required to install, or desire to be installed, Interconnection Facilities on the Property and on portions of the Owner's Entire Property that does not include the Property and further that all or any portion of those Interconnection Facilities may be constructed, operated and owned by one or more public utilities, transmission providers or other entities engaged in the electrical transmission industry. Accordingly, upon receipt of written notice from the Lessee stating that any such utility, transmission provider or other entity shall so construct, operate and own such Interconnection Facilities, Lessor shall reasonably cooperate to execute and deliver, together with the Lessee, one or more forms of utility easement or other form of easements on that portion of the Property, or on that portion of the Owner's Entire Property that does not include the Property, as applicable, affected by such Interconnection Facilities in favor of such utility, transmission provider or other entity so as to permit construction, operation and ownership of such Interconnection Facilities on the Property at the sole cost, expense and risk of the grantee of such easement. Lessee acknowledges and agrees that such easement or license shall be in form and substance satisfactory to all parties and suitable for such Interconnection Facility or utility installation and shall be for a term of years coterminous with the Lease Term (or shorter or longer as may be required by public utilities, transmission providers or other entities engaged in the electrical transmission industry). Lessor further acknowledges that an Interconnection Facility or utility installation may be required to be constructed and operated by Lessee or by public utilities, transmission providers or other entities engaged in the electrical transmission industry on the Property.

In consideration of the foregoing, Lessee shall indemnify, defend and hold harmless, collectively and individually, the Lessor Indemnified Party (defined in Section 17.1), from and against any and all Liabilities (defined in Section 17.1) arising out of, relating to or incurred in connection with, or which may be asserted against the Lessor Indemnified Party, or which the Lessor Indemnified Party may incur or suffer as a result of: (a) the construction, operation or ownership of any such Interconnection Facilities; (b) the conduct or omissions of Lessee, or of one or more public utilities, transmission providers or other entities engaged in the electrical transmission industry, in connection with or arising out of the construction, operation or ownership of any such Interconnection Facilities; provided that any indemnity obligation set forth in this paragraph shall not apply to the extent of any Liabilities caused by an act or omission of any Lessor Indemnified Party.

Notwithstanding the foregoing, Lessee acknowledges and agrees that the location of all transmission lines shall be expressly subject to the prior written approval of Lessor and that all such transmission lines shall be situated beneath the surface of the earth unless otherwise required by any Governmental Authority or Applicable Requirement.

2.6 RECs. Lessor acknowledges that Lessee shall have all right, title and interest in and to all SRECs and all other "Environmental Attributes" and "Renewable Energy Incentives" (as such terms are defined herein), and other items of whatever nature which are available as a result of solar energy being produced from the Solar Power Facilities. If any Environmental Attributes, Renewable Energy Incentives or other items are initially credited or paid to Lessor, Lessor will cause such Environmental Attributes, Renewable Energy Incentives and other items to be assigned or transferred to Lessee without delay. Lessor will cooperate with Lessee in Lessee's efforts to meet the requirements for any certification, registration, or reporting program relating to Environmental Attributes or Renewable Energy Incentives. As used herein (a) "Environmental Attributes" means any and all current or future credits, benefits, emissions reductions, environmental air quality credits, emissions reduction credits, renewable energy credits, offsets and allowances, attributable to the Solar Power Facilities, or otherwise attributable to the generation, purchase, sale or use of energy from or by the Solar Power Facilities, howsoever entitled or named, resulting from the avoidance, reduction, displacement or offset of the emission of any gas, chemical or other substance, including any of the same arising out of legislation or regulation concerned with oxides of nitrogen, sulfur or carbon, with particulate matter, soot or mercury, or implementing the United Nations Framework Convention on Climate Change (UNFCCC) or the Kyoto Protocol to the UNFCCC or crediting "early

action” emissions reduction, or Applicable Requirements involving or administered by the Clean Air Markets Division of the Environmental Protection Agency (or successor agency), or any state or federal entity given jurisdiction over a program involving transferability of Environmental Attributes, any Green Tag Reporting Rights to such Environmental Attributes, and any eligibility for a renewable portfolio standard or comparable standard or program, including, without limitation, solar renewable energy credits arising out of and state or federal legislation or regulation; (b) “Renewable Energy Incentives” means: (i) any federal, state, or local tax credits associated with the construction, ownership, or production of electricity from the Solar Power Facilities (including credits under Sections 38 and 45K of the Internal Revenue Code of 1986, as amended); (ii) any investment tax credits and any other tax credits associated with the Solar Power Facilities (including credits under Sections 38 and 48 of the Internal Revenue Code of 1986, as amended); (iii) any state, federal or private cash payments or grants relating in any way to the Solar Power Facilities or the output thereof or payments or grants made in lieu of any tax credit; (iv) state, federal or private grants or other benefits related to the Solar Power Facilities or the output thereof; and (v) any other form of incentive that is not an Environmental Attribute that is available with respect to the Solar Power Facilities; and (c) “Green Tag Reporting Rights” means the right of a purchaser of renewable energy to report ownership of accumulated “green tags” in compliance with and to the extent permitted by Applicable Requirements and include, without limitation, rights under Section 1605(b) of the Energy Policy Act of 1992, and any present or future federal, state or local certification program or emissions trading program (including, if applicable, pursuant to the Western Renewable Energy Generation Information System Operating Rules). The Parties agree that, except as expressly set forth in Section 9.2 in regard to Additional Rent, no adjustment to Rent shall be allowed or required to take into account any deviations to the amount of the benefit of Environmental Attributes or Renewable Energy Incentives actually received, or which are anticipated to be received, by Lessee in connection with the purchase, installation, operation and ownership of the Solar Power Facilities. Without limiting the generality of the foregoing, and except as expressly set forth in Section 9.2 in regard to Additional Rent, in no event will the Rent payable under this Lease result in a payment from Lessee to Lessor in respect of such Environmental Attributes or Renewable Energy Incentives.

2.7 Neither Transfer Nor Encumbrances by Lessor. The Solar Power Facilities including the Improvements and the Transmission Facilities, and any other equipment or personal property associated therewith may not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered by, through or under Lessor with Lessor’s fee interest or leasehold rights to the Property. Lessor shall not cause or permit the Solar Power Facilities including the Improvements and the Transmission Facilities, and any equipment or personal property associated therewith or any part thereof to become subject to any lien, encumbrance, pledge, claim, levy or attachment arising by, under or through Lessor. Lessor hereby waives any and all rights of distraint and Lessor’s liens, whether created by Applicable Requirements, common law, or otherwise, in and to Solar Power Facilities including the Improvements and the Transmission Facilities, and any equipment or personal property associated therewith of Lessee.

ARTICLE 3 INSURANCE

3.1 Waiver of Subrogation. Lessor and Lessee each waive any right to recover against the other on account of any and all claims Lessor or Lessee may have against the other with respect to insurance actually carried, or required to be carried hereunder, to the extent of the proceeds that are or would have been recoverable from such insurance coverage and all such policies shall be endorsed to recognize such waiver of claims and subrogation.

3.2 Lessee’s Insurance. Commencing on the Effective Date except as hereinafter specified and continuing thereafter during the Lease Term, Lessee shall procure and maintain at its sole costs and expense, and provide evidence to Lessor of, the following insurance:

(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 basis, including property 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, which insurance shall name Lessor as a named insured;

(c) Commencing on the Commencement Date, builders all risk (non-reporting form) coverage, which insurance shall name Lessor as a named insured;

(d) Umbrella Commercial General Liability insurance of five million dollars (\$5,000,000), which insurance shall name Lessor as a named insured; and

(e) Property insurance for the full replacement cost of the Solar Power Facilities.

3.3 Certain Endorsements. The Commercial General Liability Insurance referenced in Section 3.2 shall be endorsed to Lessor as an additional insured and shall be primary and noncontributory with Lessor insurance. Lessee shall deliver to Lessor certificates of all insurance required under Section 3.2 reflecting evidence of required coverages prior to initial occupancy, and annually thereafter. All insurance required under Section 3.2 shall be issued by insurers licensed to do business in the state in which the Property is located and which are rated A:VII or better by Best's Key Rating Guide and shall be endorsed to provide at least thirty (30) days prior notification of cancellation or material change in coverage to Lessor.

3.4 Contractors and Subcontractors. The insurance required to be carried by Lessee hereunder shall not contain any exclusions relating to the employees of any subcontractor. Lessee's contractors and subcontractors shall be deemed to have adequate insurance coverage for purposes of Section 3.2 if they have insurance coverages that are equivalent to that Lessee is obligated to provide under Section 3.2.

3.5 Procedure for Supplement or Additional Insurance. In the event that, at any time after the tenth (10th) Operating Year, the 20th Operating Year and the 30th Operating Year of the Lease Lessor shall believe that the amount or scope of insurance coverage required to be maintained by Lessee under Section 3.2 is inadequate, Lessor shall send a written notice to Lessee wherein (i) such inadequacies are specified in reasonable detail by Lessor; and (ii) the issuer(s), amount and scope of the new insurance deemed adequate by Lessor are specified. Within sixty (60) days after receipt of such written notice Lessee shall by written notice to Lessor either (A) agree with the recommendations made in Lessor's written report and therein confirm that such new insurance shall be procured upon expiration of the term or terms of existing insurance maintained under Section 3.2; or (ii) propose different insurer(s), amounts or scope for insurance to the Lessor (which proposal may include the same insurer(s), amounts and scope then maintained by Lessee under Section 3.2). In the event Lessee provides written notice to Lessor that proposes such different insurer(s), amounts or scope for insurance, the Lessor and Lessee shall negotiate in good faith in order to reconcile any differences between their respective proposals. In the event Lessor and Lessee are unable to reach agreement with regard to the foregoing within sixty (60) days after Lessor's receipt of Lessee's notice, Lessor and Lessee shall submit their respective proposals to a nationally recognized insurance advisor to the solar energy industry with the mutual request that such advisor determine the insurer(s), amounts and scope of insurance to be maintained under this Lease for the remainder of the Lease Term, which determination shall be final and binding on the Lessor and Lessee; provided, however, that such determination shall not increase the annual cost to Lessee for such insurance over and above the annual cost first proposed by Lessor under this Section 3.5 at the time of Lessor's notice requesting new insurance as aforesaid. The costs charged by such advisor shall be borne equally by Lessor and Lessee. Lessor shall have the right to request new insurance in accordance with this Section 3.5 once during the Lease Term, commencing after the tenth (10th) Operating Year of the Lease.

ARTICLE 4 WAIVER OF NUISANCE

Lessor has been informed by Lessee and understands that the installation of the Solar Power Facilities on the Property may potentially result in some nuisance to the Lessor such as higher noise levels than currently occur at the Property during installation of the Solar Power Facilities and the visual impact of the

Solar Power Facilities during the Lease Term. Lessor hereby accepts such nuisance and waives any right that Lessor may have to object to such nuisance (and Lessor individually releases Lessee from any claims Lessor may have with respect to any such nuisance); provided however, that the foregoing waivers and releases by Lessor shall not apply to and shall not be raised by Lessee as a defense in regard to claims made against Lessor by any third party that assert claims or damages arising out of nuisance relating to the Solar Power Facilities. Lessee covenants and agrees that it shall comply and cause all contractors and subcontractors under the EPC Contract to comply with all Applicable Requirements pertaining to acceptable noise levels during installation of the Solar Power Facilities.

ARTICLE 5 LESSEE'S REPRESENTATIONS, WARRANTIES AND COVENANTS.

5.1 Lessee's Authority. Lessee hereby represents and warrants that Lessee has the full power and authority to enter into this Lease and has obtained all required consents or approvals in connection therewith. This Lease constitutes a valid and binding agreement enforceable against Lessee in accordance with its terms.

5.2 Use. Lessee covenants to use the Property for: (a) the construction, installation, use, operation, repair, maintenance, modification, decommissioning, removal and replacement of the Generating Units and appurtenances thereto (including the Improvements and the Transmission Facilities); (b) the production and storage of equipment and materials relating to the Generating Units and appurtenances thereto (including the Improvements and the Transmission Facilities); (c) all activities reasonably necessary or ancillary in connection with such uses; and (d) any and all other activities related to any of the foregoing, including, without limitation, any and all uses necessary or contemplated by an EPC Contract, interconnection agreement and all contracts or documents entered into in connection therewith.

ARTICLE 6 LESSOR'S REPRESENTATIONS, WARRANTIES AND COVENANTS.

6.1 Lessor's Authority. Lessor represents and warrants that it has the full power and authority to enter into this Lease and has obtained all required consents or approvals in connection therewith and the execution, delivery and performance by Lessor of this Lease will not: (a) violate or conflict with any certificate of incorporation, mission statement, bylaws, covenant, trust agreement, trust, agreement or understanding to which it is a party or by which it or any of its properties or assets is bound or affected, or any of its other organizational documents; (b) subject the Solar Power Facilities including the Improvements and the Transmission Facilities, and any equipment or personal property associated therewith to any lien; and (c) require, as a condition to such execution, delivery and performance, the issuance of any consent or provision of notice by any person. This Lease constitutes a valid and binding agreement enforceable against Lessor in accordance with its terms.

6.2 Lessor Ownership of the Property; No Liens. Lessor represents and warrants to Lessee that: (a) Lessor has the full power and authority to enter into and perform its obligations under this Lease; (b) the Property is not encumbered by or the subject of any liens, mortgages, options, tax liens (except for the lien for real estate taxes not yet due) or other forms of encumbrance of any Person; and (c) Lessor holds fee simple title to the Property and is the legal owner of the Property.

6.3 Condemnation. Lessor represents and warrants to Lessee that: (a) there is no pending or, to Lessor's Knowledge, threatened condemnation proceedings or other governmental, municipal, administrative or judicial proceedings affecting the Property; and (b) there are no agreements with any third parties (including, but not limited to, any other leases, use or occupancy agreements, easements, licenses or other rights of possession or use, or any option for any of the foregoing) that could interfere with, conflict with, prohibit or restrict Lessee's ability, or the ability of any Lessee Access Parties to enter upon and use the Property as contemplated by this Lease.

6.4 Legal Proceedings. Lessor represents and warrants that, to Lessor's Knowledge, there are no pending or threatened actions or legal proceedings affecting the Property.

6.5 Environmental Matters. Lessor represents and warrants that, to Lessor's Knowledge the Property has not been used by Lessor for the disposal of refuse or waste, or for the generation, processing, manufacture, storage, handling, treatment or disposal of any Hazardous Substances. Lessor has not received any notice from any governmental body claiming any violation of any Environmental Law, and neither Lessor, its agents or employees, nor, to the best of Lessor's Knowledge, any occupant or prior Lessor of the Property, has ever been informed of any threatened or proposed serving of any such notice of violation or corrective work order under applicable statute, governmental regulation and/or rule.

6.6 Permits. Except for any Permit required by Section 15.1, Lessor represents and warrants that Permits are not required to be obtained by the Lessor in regard to (i) the execution and delivery by the Lessor of this Lease, (ii) the performance by Lessor of Lessor's obligations under this Lease, and (iii) the grant of the Easements to Lessee pursuant to Article 7 and Article 19 of this Lease.

6.7 Other Representations and Warranties. Lessor represents and warrants that Lessor shall not make any improvements to the Property, other than required by Applicable Requirements and only than after Lessee has been so informed in writing by Lessor, and Lessee, at Lessee's option and Lessor's expense, completes all necessary demanded improvements.

6.8 Effectiveness of Lessor's Representations and Warranties; AS IS WHERE IS Condition. The Parties acknowledge that (i) this Lease was negotiated in late 2012 and early 2013, and was attached as an Exhibit to that certain Second Amended and Restated Option Agreement between the Parties, and (ii) the representations and warranties made in this Article 6 may change between the date of the Second Amended and Restated Option Agreement and the Effective Date. Accordingly, if Lessor's representations and warranties set forth in this Article 6 have changed since the date of the Second Amended and Restated Option Agreement, then Lessor shall disclose the manner in which the representations and warranties have changed in Exhibit E annexed hereto. If Lessor discloses in the Exhibit that any of the representations or warranties made by Lessor in this Article 6 are not true and correct in all materials respects, then Lessor shall include such facts in the Exhibit as shall be necessary or appropriate to make such representations or warranties true and correct in all material respects as of the Effective Date. If, as a result of any disclosures made in the Exhibit, the representations and warranties set forth in this Article 6 are not true and correct in all material respects for any reason other than the occurrence of events expressly permitted by the Second Amended and Restated Option Agreement, then Lessee's sole remedy shall be to terminate this Lease by written notice delivered to Lessee within ten (10) days of the written disclosure to Lessee. If Lessee does not terminate within said ten (10) period, then Lessee's right to terminate shall cease. Except for Lessor's representations and warranties expressly provided in this Lease, Lessee acknowledges that it is leasing the Property in its AS IS, WHERE IS condition, without any representation, warranty, or obligation of Lessor, express or implied whatsoever concerning the condition of the Property, title thereto, zoning, environmental status, or any other matter in any way related to the Property or the proposed Solar Power Facilities.

ARTICLE 7 LEASE AND EASEMENTS.

7.1 Lease. Effective as of the Effective Date and upon the terms and subject to the conditions set forth herein, Lessor does hereby demise and lease unto Lessee, and Lessee does hereby take and lease from Lessor the Property; *provided, however*, that Lessor and Lessee acknowledge and agree that payment of Rent hereunder shall not commence until the Rent Commencement Date.

7.2 Easements.

(a) Effective as of the Effective Date, Lessor hereby grants to Lessee the Easements. Lessor acknowledges and agrees that the rights, interests and entitlements created in favor of or vested in Lessee pursuant to this Section and or this Lease are and shall at all times be for the benefit of the Lessee Access Parties and their permitted successors and assigns.

(b) No Interference with Easements. Notwithstanding that the Easements may be non-exclusive, Lessor warrants, covenants and agrees that it will not grant any easements to parties other

than Lessee within areas encumbered by the Easements that could interfere in any way with the rights granted to Lessee hereunder. Lessor shall not in any way tamper with or disturb any facilities of Lessee located in the areas encumbered by the Easements or use such areas in a manner that interferes with Lessee's operations. Any easements granted by Lessor subsequent to the Effective Date that encroach upon the Easements granted hereunder shall be subordinate thereto and subject to Lessee's reasonable design, construction, operation and maintenance standards so as not to damage the equipment, facilities and systems located or constructed therein or thereon or interfere with Lessee's use thereof.

(c) Termination of Easements. Subject to the provisions of Section 2.5, all easements granted hereunder, including the Easements, shall terminate automatically upon expiration or earlier termination of the Lease Term. Lessee, at no cost to Lessee, shall reasonably cooperate with Lessor to evidence, in recordable form, the termination of any recorded Easements.

ARTICLE 8 LEASE TERM; EXPIRATION AND TERMINATION.

8.1 Lease Term. The Initial Lease Term shall commence on the Commencement Date and shall be for an initial term (without giving effect to any Renewal Term) that expires twenty-five (25) years from the Commercial Operation Date. Lessee shall have the right and option, by giving written notice to Lessor at least six (6) months prior to the end of (i) the Initial Lease Term, to extend the term of this Lease for five (5) years (the "First Renewal Term"), (ii) the First Renewal Term, to extend the term of this Lease for five (5) years (the "Second Renewal Term") in each case, upon the same terms and conditions as the terms and conditions set forth in this Lease; provided, however, that there is no outstanding Event of Default at either the time of exercise or the commencement of any Renewal Term. The Initial Lease Term and the First Renewal Term and Second Renewal Term, if applicable, collectively being the "Lease Term" or "Term" of this Lease.

8.2 Expiration and Termination. The Lease Term shall end at 11:59 p.m., local time on the last day of the Lease Term, or earlier termination thereof as provided herein.

8.3 Commencement Date. The obligation of Lessor to deliver possession of the Property to Lessee and of Lessee to accept possession of the Property and otherwise be liable for performance of the obligations of Lessee set forth herein shall commence on the Effective Date (such date, the "Commencement Date"); provided, however, that Lessor acknowledges that the obligation to pay Rent shall not arise until the Rent Commencement Date.

8.4 Early Termination.

(a) Termination by Either Party. Either Party may, at its option, terminate this Agreement upon thirty (30) days prior written notice to the other Party if the Commercial Operation Date has not occurred within eighteen (18) months following the Commencement Date.

(b) Termination Damages. If either Party elects to terminate this Agreement pursuant to Section 8.4(a), neither Party shall incur any liability in connection with such termination and neither Party shall be obligated to pay damages to the other Party, and upon the effective date of such termination, the Parties shall have no further rights or obligations hereunder other than those that are expressly stated to survive the expiration or termination of this Agreement.

(c) Automatic Termination. This Agreement shall terminate automatically on the date set forth in the termination notice delivered pursuant to Section 8.4(a) (or if no termination date is specified in such notice, thirty (30) days following receipt of such notice by the non-delivering Party), and the Parties shall have no further rights or obligations hereunder, other than those that are expressly stated to survive the expiration or termination of this Agreement.

8.5 Commercial Operation Date. Lessee shall provide written notice to Lessor (the "Commercial Operation Date Notice") that the Facility has been commissioned and is ready to commence

commercial operation in accordance with the Commercial Operation Date not less than ten (10) business days prior to such date.

ARTICLE 9 RENT.

9.1 Rent. Commencing on the Rent Commencement Date and continuing thereafter in and for each Operating Year during the Lease Term, Lessee shall pay to Lessor, annual rent in an amount set forth in Schedule A hereto (in each Operating Year, the "Base Rent"), in equal semi-annual installments for each semi-annual period arising during the Lease Term in advance; *provided however*, the Base Rent for any Operating Year after the Initial Lease Term shall only be due and payable if the Lessee has exercised its option to extend the Lease Term for the First Renewal Term and the Second Renewal Term in accordance with Section 8.1. For purposes of this Lease, "semi-annual period" shall mean the first day of the month for the six month period immediately following the Rent Commencement Date. By way of example, if the Rent Commencement Date is June 9, then the Base Rent payment dates shall be July 1 and January 1.

9.2 Additional Rent.

(a) Additional Rent. In the event in any calendar year arising during the Lease Term (such year, the "Recognition Year") commencing with the first such calendar year arising after the Commercial Operation Date, Lessee shall recognize revenue as determined in accordance with GAAP in excess of [REDACTED] arising from the sale of SRECs attributable to energy produced by the Solar Power Facilities during any one distinct calendar year arising during the Lease Term (the "SREC Attribution Year"), additional rent shall then be due and owing to the Lessor in and for such SREC Attribution Year in an amount equal to such revenue in such Receipt Year so recognized by Lessee in excess of [REDACTED] provided, however that such additional rent in and for any one SREC Attribution Year shall not exceed [REDACTED] (the "Additional Rent"). Lessee shall provide to Lessor no later than April 15 of the calendar year immediately following the Recognition Year a detailed report regarding Lessee's recognition of revenue in accordance with GAAP in and for such Recognition Year and the identity of the

(b) Payment of Additional Rent. Lessee represents to Lessor that under the Massachusetts Applicable Requirements in effect on January 1, 2013, SRECs attributable to energy generated by the Solar Power Facilities during any one distinct calendar year arising during the Lease Term shall be eligible for sale under the MASS SREC Program in either of the two subsequent calendar years after the year in which they were generated. Lessor and Lessee agree that Lessee shall pay Additional Rent due under Section 9.2(a) in and for any SREC Attribution Year no later than ten (10) days after the date Lessee shall recognize revenue in the applicable Recognition Year. Lessor acknowledges and agrees that nothing in this Lease or this Section 9.2 shall be deemed to obligate Lessee to generate SRECs or sell SRECs during the Lease Term. Furthermore, Lessor expressly understands and acknowledges that Lessee's recognition of revenue from the sale of SRECs will vary greatly from calendar year to calendar year and will be affected by changes in Applicable Requirements, operating characteristics of the Solar Power Facilities, market conditions and other factors and that accordingly Lessor's receipt of Additional Rent in and for one or more calendar years arising during the Lease Term shall not be construed by Lessor

as a guarantee of Lessee or a representation that Lessor shall receive Additional Rent in and for any other calendar years or that the amount of such Additional Rent shall be equal to or greater than the amount of Additional Rent payable in respect of preceding calendar years.

(c) Each Year Distinct; No Carry Back or Carry Over of Income. Lessee and Lessor acknowledge and agree that calculation of Additional Rent in accordance with Section 9.2(a) shall be done for each distinct SREC Attribution Year referenced in Section 9.2(a) and that accordingly, the calculation of Additional Rent due for each distinct SREC Attribution Year shall be derived from revenue recognized as earned in the applicable Recognition Year by Lessee in accordance with GAAP.

(d) Lessor Audit. Not more than once each SREC Attribution Year, Lessor or any third party representative of Lessor shall have the right, at its sole expense, to examine the records of Lessee relating to Lessee's recognition of revenue as determined in accordance with GAAP arising from the sale of SRECs attributable to energy produced by the Solar Power Facilities during such SREC Attribution Year. Such examination shall be conducted during normal business hours upon reasonable notice to the extent necessary to verify the accuracy of Lessee's payment of Additional Rent in and for such SREC Attribution Year.

9.3 Holdover Rent. If (a) Lessee remains in possession of the Property following the expiration of the Lease Term; or (b) remains in possession in order to complete the Removal Obligations; or (c) fails to complete the Removal Obligations within the Removal Period, Lessee shall continue to pay Rent to Lessor to the extent that Lessee continues to operate the Solar Power Facilities and receive any revenue whatsoever in connection therewith, for the period from the expiration of the Lease Term through the completion of its Removal Obligations and surrender of the Property to Lessor, at the rate in effect immediately prior to the expiration of any such term plus five percent (5%) of such amount (the "Holdover Rent"). Lessee's failure to complete its Removal Obligations and surrender the Property to Lessor by the end of the Removal Period shall not constitute a lease extension or Lessor agreement to continue leasing to Lessee, who shall be a tenant at sufferance only. Lessee shall indemnify, defend, and hold harmless Lessor from all losses, costs, and damages suffered by Lessee's holdover beyond the expiration of the Removal Period or failure to complete its Removal Obligations by the expiration of the Removal Period. No Holdover Rent shall be payable by Lessee to Lessor if Lessee ceases operation of the Solar Power Facilities on or prior to the expiration of the Lease Term and uses the Removal Period solely for the purpose of completing the Removal Obligations.

ARTICLE 10 CONSTRUCTION; ALTERATIONS.

10.1 Construction. Lessee shall construct the Solar Power Facilities and any Interconnection Facilities or Transmission Facilities (or cause the Solar Power Facilities and any Interconnection Facilities or Transmission Facilities to be constructed) consistent with industry standards and in accordance with Applicable Requirements. Subject to Article 16, Lessor agrees to cooperate with Lessee in Lessee's applications for Governmental Approvals necessary to permit the construction, installation, use, operation, repair, maintenance, modification, decommissioning, removal and replacement of the Solar Power Facilities and any Interconnection Facilities or Transmission Facilities. Lessor shall receive no additional compensation for such cooperation, but Lessee shall pay all fees and costs associated with said applications, including Lessor's reasonable attorneys' fees.

10.2 Alterations. Lessee may at any time expand or modify the Solar Power Facilities, including, without limitation, adding Generating Units and/or Interconnection Facilities and increasing the electrical capacity. Such expansion or modification may require additional space at the Property, but shall not exceed the area of the Property. Lessor shall approve upon the written request of Lessee any such expansion or modification required regarding the Solar Power Facilities.

10.3 Liens. If any Person hired or retained by or under contract with Lessee or its contractors, or if any judgment creditor, mortgagee, governmental authority or any other Person making a claim against Lessee shall file or perfect a lien against Lessor's fee interest in the Property or any portion thereof, Lessee shall, within thirty (30) days after receiving notice of the filing thereof, discharge such lien by bond or

otherwise and shall indemnify, protect and defend Lessor against all losses or expenses in connection therewith, including reasonable attorneys' fees. If any Person hired or retained by or under contract with Lessor or its contractors or if any judgment creditor, mortgagee, governmental authority or any other Person making a claim against Lessor shall file or perfect a lien against all or any portion of the Property that would impact the Solar Power Facilities, the Interconnection Facilities or Transmission Facilities, or the Easements, Lessor shall within thirty (30) days after receiving notice of the filing thereof, discharge such lien by bond or otherwise and shall indemnify, protect and defend Lessee against all losses or expenses in connection therewith, including reasonable attorneys' fees.

ARTICLE 11 MAINTENANCE AND REPAIR.

During the Lease Term, Lessee shall, at its sole cost, maintain and repair the Property, the Interconnection Facilities (if owned by Lessee and not be a public utility or transmission service provider), the Solar Power Facilities and the Transmission Facilities (if owned by Lessee and not be a public utility or transmission service provider) consistent with industry standards and, in all material respects, in accordance with Applicable Requirements and Lessee shall be solely responsible for maintaining and keeping the foregoing in good order and condition. Lessee shall grant Lessor the right of first proposal for performing routine maintenance on the Property such as grass cutting, pruning, snow plowing and similar activities.

ARTICLE 12 TITLE TO THE SOLAR POWER FACILITIES

Lessor (including any mortgagee of Lessor) shall have no rights in or to the Solar Power Facilities or any appurtenances thereto (including the Interconnection Facilities and the Transmission Facilities), and the Solar Power Facilities and all appurtenances thereto (including the Interconnection Facilities and the Transmission Facilities) shall be solely the personal property of Lessee; provided that if any portion of the Interconnection Facilities or Transmission Facilities are owned by a third party, such portion of the Interconnection Facilities or Transmission Facilities shall be solely the personal property of such third party. At no time shall the Solar Power Facilities or any portion thereof be a fixture or be deemed a permanent improvement or any other character of property that would attach to the Property or give Lessor or any mortgagee of Lessor any rights thereto. Lessor shall use commercially reasonable efforts to obtain an acknowledgment from each mortgagee of Lessor with any interest in the Property that the Solar Power Facilities (and all equipment and materials located at or used in connection with the Solar Power Facilities, including the Interconnection Facilities or Transmission Facilities) is the personal property of Lessee (or a third party, to the extent applicable), and not a fixture, a permanent improvement or any other character of property that would subject the Solar Power Facilities, the Interconnection Facilities or Transmission Facilities to any lien or security interest that any mortgagee of Lessor may have on or with respect to the land.

ARTICLE 13 NO INTERFERENCE.

13.1 Lessor Agreements. As of the Effective Date, Lessor shall not enter into any agreements, leases (including any renewals thereof), easements or any other arrangements for rights to or for the Property that could adversely affect the Operations, Property or the Easements or the ownership or operation of the Solar Power Facilities or the Interconnection Facilities or Transmission Facilities. Lessor's activities and any grant of rights by Lessor to any third party shall not, now or in the future, interfere with any rights granted to Lessee under this Lease.

13.2 Lessor Actions. Lessor shall, before beginning any trenching, digging or any other activity that could damage or interfere with any portion of the Solar Power Facilities or the Transmission Facilities that is located or installed underground (including cables, wires and conduit), give Lessee at least ten (10) days prior written notice of the time and location of such activity and permit a representative of Lessee to be present (although Lessee shall not be obligated to have a representative present) during such activity. Lessee shall provide Lessor with access to and, upon request, copies of all site diagrams in Lessee's possession, as well as descriptions of all known underground utilities and structures installed by Lessee on the Property during the Lease Term and their locations.

13.3 Insolation. Lessor acknowledges and agrees that insolation (access to sunlight) is essential to the value to Lessee of the leasehold interest granted hereunder and is a material inducement to Lessee in entering into this Lease. Without limiting the foregoing, Lessor shall not: (a) construct or permit to be constructed any structure; (b) plant or allow to be planted any trees or other vegetation; or (c) allow any other obstruction, dust from mining operations permitted under Article 14 or transportation activities related thereto, particulate from such mining operations or transportation activities related thereto, in each case, on the Owner's Entire Property or the Property, that is reasonably expected to decrease the output or efficiency of the Solar Power Facilities or adversely affect insolation levels. Subject to the provisions of the preceding sentence, Lessor shall provide to Lessee complete copies of any proposed building plan, plat or site plan depicting any structure or improvement proposed to be erected on the Owner's Entire Property prior to submission thereof to any Governmental Authority in order for the Lessee to have an opportunity to review such proposed structure or improvement in reference to whether such structure or improvement will decrease the output or efficiency of the Solar Power Facilities or adversely affect insolation levels in violation of this Section 13.3 and in the event Lessee determines that such structure or improvement will so decrease the output or efficiency of the Solar Power Facilities or adversely affect insolation levels and notices Lessor in reasonable detail as to the basis for such determination, Lessor shall revise, amend or abandon such proposed construction in order to eliminate all such described adverse effects on the output or efficiency of the Solar Power Facilities or the insolation levels on the Property. Further, if by Applicable Requirements a Governmental Authority requires the Lessor to plant any trees or other vegetation around the perimeter of the Owner's Entire Property or the Property, Lessor shall promptly notify Lessee, and if it is determined within thirty (30) days that such tree or vegetation planting is required under Applicable Requirements and Lessee is not contesting such Applicable Requirements, Lessor may proceed with such planting in co-ordination with the Lessee so as to minimize the insolation impact to the Solar Power Facilities. In the event Lessor does not comply with this Section 13.3, Lessee shall provide written notice to Lessor of such non-compliance. If Lessor fails to commence correction of such non-compliance within ten (10) business days following Lessee's notice and thereafter diligently pursue such correction to completion, Lessee may remove any interfering structures (including, if such structure is not on the Property) and Lessor shall, promptly upon demand, reimburse Lessee for the cost of such removal. Lessee may, at Lessee's sole cost and expense, cause trees, foliage and landscaping that interfere with insolation to be trimmed, pruned or otherwise controlled in a reasonable manner that is not in violation of any Applicable Requirements sufficient to eliminate such interference.

13.4 Quiet Enjoyment. As of the Commencement Date, Lessor agrees that Lessee shall quietly and peaceably hold, possess and enjoy the Property pursuant to the terms of this Lease and for the Lease Term, without any hindrance or molestation caused by any party claiming by, through or under Lessor. Lessor shall defend title to the Property, and the use and occupancy of the same, against the claims of all others, except those claiming by or through Lessee. Lessor shall not enter into or modify any documents, including any declarations, easements, restrictions or other similar instruments, which may materially affect the Property, or the rights and/or obligations of Lessee hereunder, without first obtaining the prior written consent of Lessee.

ARTICLE 14 LESSOR MINING.

14.1 Mining. Notwithstanding any provision of this Lease or the Easement to the contrary, Lessor hereby reserves the right and privilege to engage in mining activities on the Property and on the Owner's Entire Property that does not include the Property during the Term in accordance with and subject to Lessor's continuing compliance with the terms and conditions set forth in this Article 14.

14.2 Location for Mining. Lessor's mining activities shall be conducted within the boundaries of the Property solely in the area marked as "Mining Location A" on **Schedule B** annexed hereto. Lessor's mining activities shall be conducted within the boundaries of that portion of the Owner's Entire Property that does not include the Property solely in the area marked as "Mining Location B" on **Schedule B** annexed hereto. Lessor covenants and agrees that it shall not engage in mining activities, and shall not permit any contractor, agent, subcontractor, tenant or licensee to engage in mining activities, in any location within the boundaries of the Property other than Mining Location A during the Term. Lessor covenants and agrees that it shall not engage in mining activities, and shall not permit any contractor, agent,

subcontractor, tenant or licensee to engage in mining activities, in any location within the boundaries of that portion of the Owner's Entire Property that does not include the Property other than Mining Location B unless Lessee provides its express, prior written consent to such new location.

14.3 Lessor Duties and Obligations Regarding Mining. Lessor shall engage, and shall cause any contractor, agent, subcontractor, tenant or licensee to engage, in permitted mining activities described in Section 14.1 and Section 14.2 in accordance with and subject to the following duties, obligations, limitations and restrictions:

(a) Conduct of Mining. Lessor shall be responsible for installation and equipping of Mining Location A and Mining Location B, and shall conduct all mining activities permitted hereunder in compliance with all Applicable Requirements. Lessor shall be exclusively responsible for the awarding of all mining contracts, subcontracts and other agreements pertaining to Lessor's mining activities and for the administration and enforcement of all such contracts, subcontracts and agreements, and for any litigation or the settlement of any disputes, lawsuits or claims thereunder. Lessee shall have no liability under any such contracts, subcontracts and agreements, or for the payment of any claims, damages or losses arising thereunder, or for any failure of any party thereto to perform its obligations thereunder.

(b) Notices and Permits. Lessor shall give or cause to be given all notices under, and shall comply or caused to be complied with, all applicable Environmental Laws relating to the installation and equipping of Mining Location A and Mining Location B. Lessor shall obtain all permits required to be obtained in connection with the construction and equipping of installation and equipping of Mining Location A and Mining Location B.

(c) Site Security: It is understood and acknowledged by the Parties hereto that Lessee shall not be responsible for loss of or damage to mining equipment, apparatus, vehicles, improvements, repairs, alterations, renewals, substitutions and replacements of, and additions or appurtenances to, Mining Location A and Mining Location B, or for personal injury arising from or related to the mining activities contemplated by this Article 14; provided however that Lessee shall be responsible for such loss or damage, or for such personal injury, in the event any of the foregoing are caused by the negligence or willful misconduct of any of the Lessee Access Parties.

(d) Blasting; Flyrock. In the event Lessor engages in blasting incident to its permitted mining activities at Mining Location A and Mining Location B, Lessor shall use effective blasting methods and techniques, and reasonable standards to control noise, dust and vibration in open pit mines or quarries shall be employed. Lessor shall not permit or suffer to permit blasts of a size or at a location which produces destruction or damage to the Solar Power Facilities. Blasting shall be conducted by a licensed blaster at all times. Lessor shall provide reasonable advance notice to Lessee that blasting is to be conducted at Mining Location A or Mining Location B. In the event of flyrock beyond Mining Location A and Mining Location B that falls on any of the Solar Power Facilities, all blasting shall cease immediately and shall not resume until Lessor takes appropriate measures to insure that continued blasting will not result in flyrock impacting the Solar Power Facilities.

(e) Dust Control. Lessor acknowledges that dust and particulate cover on the Solar Power Facilities from mining operations and related transportation activities causes immediate, material adverse decline in the capacity of such Solar Power Facilities to generate electricity. In order to control dust resulting from mining activities permitted hereunder to exist solely in Mining Location A and Mining Location B, Lessor shall ensure that all trucks loaded with ore or aggregate must be covered with tarps during their entire trip from Mining Location A and Mining Location B to their destination. All non-paved, on-site haul roads and any portion of the Mining Site Access Road shall be treated by Lessor at its sole cost and expense with water or with another dust suppressant as needed to prevent dust and particles from accumulating on the Solar Power Facilities. Generally accepted techniques to suppress on-site dust impacts from truck traffic and mining activities shall also be utilized by Lessor upon the written request of Lessee in the event treatment of the haul roads or Mining Site Access Road in accordance with this Section 14.2(e) is inadequate, in the reasonable judgment of Lessee, to prevent dust and particles from accumulating on the Solar Power Facilities. Water or other approved dust palliatives must be applied to haulage-ways at Mining

Location A and Mining Location B to prevent dust from leaving Mining Location A and Mining Location B.

(f) Waste. Lessor shall not permit or suffer to exist any natural swales or channels or constructed features such as ditches, pipes, etc. that are capable of discharging waters from leaving Mining Location A and Mining Location B to any other area of the Property. All silt laden water and storm water generated on or running across Mining Location A and Mining Location B shall be retained within Mining Location A and Mining Location B.

(g) General Duties and Obligations. Lessor shall:

(i) Supervise and manage the day to day operations at Mining Location A and Mining Location B, and supervise and manage its employees and any agents or independent contractors engaged to provide services to Lessor in connection therewith.

(ii) Repair and maintain Mining Location A and Mining Location B, including all scheduled and unscheduled maintenance and overhead required to keep Mining Location A and Mining Location B in safe and efficient operating condition, except for normal wear and tear.

(iii) Obtain and maintain such permits as are required by any Governmental Authority to operate mining and related activities at Mining Location A and Mining Location B, and document the use, on-site storage and disposition of Hazardous Substances in accordance with applicable Environmental Laws and the requirements of Applicable Requirements.

(h) Title to Property. Legal title to all property constituting improvements, repairs, alterations, renewals, substitutions and replacements of, and additions or appurtenances to, Mining Location A and Mining Location B shall, immediately upon completion or installation thereof, become vested in Lessor without any further act by either Party. Lessee hereby disclaims any and all form or ownership of such improvements, repairs, alterations, renewals, substitutions and replacements, and additions or appurtenances.

14.4 Insurance. In addition to, and not in limitation of, any obligation to indemnify Lessee set forth in Section 14.5, Lessor covenants and agrees, at its sole expense, to procure and maintain in full force and effect, the following insurance coverage:

(i) Commercial general liability insurance including broad form contractual liability with bodily injury limits, and property damage limits, in an amount not less than Five Million Dollars (\$5,000,000.00). The commercial general public liability insurance shall provide coverage against losses arising out of the legal liability of Lessor due to the maintenance or operation on Mining Location A and Mining Location B including (1) premises and operations; (2) contractual; (3) contingent; (4) products; (5) hired vehicles; (6) non-owned vehicles; and (7) liability arising out of employees' use of personal vehicles for company business;

(ii) Insurance or self-insurance adequate to fully satisfy Lessor's legal obligations under all state and federal workers' compensation statutes; and

(iii) Compressive Automobile and Truck Liability Insurance in the amounts not less than \$1,000,000.00 combined single limits and in the amount not less than \$500,000.00 in respect to damage to or destruction of property.

All insurance required under this Section 14.4, or any other insurance obtained by Lessor for Lessor's mining operations on the Property, including but not limited to any umbrella insurance policies, shall be

with a reputable insurer(s) licensed to do business in the Commonwealth of Massachusetts and shall name Lessee as additional insured. All insurance required hereunder shall contain a provision for notice to Lessee of any overdue or unpaid premium and thirty (30) days' advance notice to Lessee of any proposed cancellation.

14.5 Indemnification by Lessor. To the fullest extent permitted by Applicable Requirements, Lessor shall indemnify and hold harmless the Lessee Indemnified Parties, from and against from all costs, expenses, attorneys' fees and expenses, court, mediation or arbitration fees, expenses and costs, damages, fees, liabilities, obligations, penalties, charges, disbursements, claims, liens and encumbrances, including without limitation, any of the foregoing related to Environmental Laws, rules or regulations, which arise out of or are asserted, either in whole or in part, directly or indirectly, because of or related to (i) the use, occupancy, exercise or operation of the mining rights reserved to Lessor pursuant to this Lease or (ii) any act or omission by Lessor or its contractors, subcontractors, employees, agents, representatives, or any of their successors or assigns, in the course of mining operations, reclamation activities, or otherwise in the pursuance of the terms hereof or exercise of the rights or privileges reserved hereunder. Notwithstanding any provision of this Lease, including the foregoing Section 14.5 to the contrary, Lessor shall have no obligation to indemnify or hold harmless the Lessee Indemnified Parties from such costs, fees, expenses, damages, liabilities, obligations, penalties, charges, disbursements, claims, liens and encumbrances in the event they are paid or incurred by Lessee due to or arising in connection with (A) dust, particulates or dirt accumulation on the Solar Power Facilities due to natural winds or atmospheric conditions, in either case unrelated to such mining activities; or (B) pollen.

14.6 Mining Access Road. The Lessor hereby reserves the nonexclusive right of ingress, egress, access and free passage by and between, and to and from, the Grantee Property to and from Route 110, a state highway in Massachusetts over and across the location set forth and described on **Schedule C** attached hereto and made a part hereof (hereinafter referred to as the "Mining Site Access Road"); provided, however, that all such ingress, access, egress and free passage shall be accomplished by Lessor in a manner that is the least inconvenient, disruptive, intrusive and damaging to the Solar Power Facilities. Lessor shall be solely responsible, at its sole cost and expense and at all times during the Term, for installation, construction and maintaining the Mining Site Access Road during its use, in good condition and in accordance with practices employed in the maintenance of similar roadways and in accordance with all Applicable Requirements.

ARTICLE 15 TAXES.

15.1 Subdivision. Lessor at Lessor's expense has subdivided the Owner's Entire Property so that the Property will be a separate lot for real estate tax ("Taxes") purposes. Lessee shall be liable for any (i) Taxes on the Property which are solely attributable to the installation, construction, operation and maintenance of the Solar Power Facilities, (ii) all other Taxes on the Property, and (iii) all personal property taxes attributable to the Improvements. All other Taxes due in respect of the Owner's Entire Parcel, including its commercial operation and mining activities, including without limitation Taxes on the Property or the Owner's Entire Property which are solely attributable to the installation, construction, operation and maintenance of such mining activities, shall be the liability of Lessor during the Lease Term. Under no circumstances will Lessee be liable for any Taxes attributable to or associated with Owner's Entire Parcel or any equipment, machinery, improvements or other property, real or personal, tangible or intangible, of Lessor wheresoever located or acquired.

15.2 Lessee's Obligations. If Taxes payable by Lessee hereunder are determined to be owing, Lessee shall pay directly to the appropriate taxing authority the amount determined in accordance with this Section 15.1.

15.3 Failure to Pay Taxes. Lessee's failure to pay the Taxes for which it is obligated pursuant to Section 15.1 prior to delinquency shall constitute a default hereunder. In the event of such a default or failure, the Lessor shall have the right, but not the obligation, to cure such default by payment of those Taxes which are due. If the Lessor elects to cure such default, the Lessor shall provide written notice of the amount due to the Lessor by the Lessee and such amount shall immediately become due and payable to the

Lessor by the Lessee, together with any interest plus penalties on such Taxes, plus interest on money advanced by the Lessor in satisfaction thereof at the Default Rate from the date payment was made by the Lessor through the date the Lessor is reimbursed by the Lessee for such payment.

15.4 Right to Contest Taxes. The Lessee may contest the legal validity or amount of any Taxes, assessments, or other charges for which it is responsible under this Lease, and may institute such proceedings as it considers necessary, provided that such contest shall be prosecuted to a final conclusion as speedily as possible, and Lessee shall bear all costs and expenses in pursuing such contest or proceeding.

ARTICLE 16 ENVIRONMENTAL MATTERS.

16.1 Compliance. Each of Lessor and Lessee shall comply with all Environmental Laws applicable to the Property, including compliance with any reporting obligations under Environmental Laws, and shall use the Property in a manner that does not endanger the health or safety of any Persons.

16.2 Notices. Lessor and Lessee shall promptly deliver to one another true and complete copies of any and all notices or correspondence or requests from, or required to be submitted to, any Governmental Authority or other third party relating to non-compliance with any Environmental Laws with respect to the Property or the release, disposal, use, storage, generation, treatment, transportation or handling of Hazardous Materials on, in, under or about the Property, including copies of any notices of violation.

16.3 Covenants. Each of Lessor and Lessee agrees that it will: (a) not: (i) permit Hazardous Substances to be present on or about the Property in violation of any Applicable Requirements, including Environmental Laws, or (ii) release any Hazardous Substances on, in, at, under, or from, the Property, including the Property, other than in accordance with any Applicable Requirements; and (b) comply in all material respects with Environmental Laws relating to the Property and the use of Hazardous Substances on or about the Property or in connection with the Solar Power Facilities and not engage in or permit its employees, agents or contractors to engage in any activity at the Property in violation of any Environmental Laws or that results in a release of Hazardous Substances as set forth in this Section 16.3.

16.4 Releases; Discharges. If Lessor or Lessee or any of their respective employees, agents or contractors releases, discharges or disposes of Hazardous Substances on, in, at, from or about the Property or any portion thereof to the environment in a manner that violates any Environmental Law, or results in a requirement to report, contain, remove or otherwise respond to such release, discharge or disposal, the violating party agrees to report such occurrence to the appropriate Governmental Authorities to the extent required by Applicable Requirements, and to investigate, clean up, remove or remediate such Hazardous Substances at such violating Party's cost in full compliance with: (a) the requirements of all Environmental Laws; and (b) any additional requirements of Lessor that are reasonably necessary to protect the value of the Property. As long as the violating Party is diligently proceeding with the actions specified in the previous sentence and such violation does not have a material adverse effect on the operations of the other Party, it shall be deemed to have cured any breach of the covenants set forth in this Article 16.

16.5 Surrender. Lessee shall surrender the Property to Lessor upon the expiration or earlier termination of this Lease: (a) free of debris, waste and Hazardous Substances except for any such materials existing on the Property as of the Effective Date or thereafter placed on, about or near the Property by Lessor, or its employees, agents or contractors, whether arising out of or in connection with Lessor's mining activities or otherwise, and (b) in a condition which complies with all Environmental Laws.

16.6 Survival. The provisions of this Article 16 shall survive the expiration or earlier termination of this Lease.

ARTICLE 17 INDEMNIFICATION.

17.1 Lessee. Lessee shall indemnify, defend and hold harmless Lessor, its shareholders, members, officers, directors, agents, trustees, beneficiaries, representatives, legal counsel and employees (collectively and individually, the "Lessor Indemnified Party"), from and against any and all liabilities, claims, demands, actions, causes of action, counterclaims, suits, injunctive proceedings, administrative actions, investigations, judgments, losses, damages, expenses and other obligations (collectively, "Liabilities") including court costs, experts' fees and all attorneys' fees arising out of, arising out of, relating to or incurred in connection with, or which may be asserted against the Lessor Indemnified Party, or which the Lessor Indemnified Party may incur or suffer as a result of: (a) the breach or default by Lessee of any covenant, representation or warranty made by Lessee in this Lease; (b) any injury or damage to life, limb or person or the property or chattel of the Lessor Indemnified Party to the extent caused by the negligence, misconduct, failure or breach of Lessee, its shareholders, members, officers, directors, agents, trustees, representatives and employees or any thereof; (c) the presence or release of Hazardous Substances in, under, on or about the Property or any part thereof, which are brought or permitted to be brought onto the Property or any part thereof by Lessee, its shareholders, members, officers, directors, agents, contractors, trustees, representatives and employees or any thereof; (d) the violation of or creation of any Liabilities under any Environmental Laws by Lessee, its shareholders, members, officers, directors, agents, contractors, representatives and employees or any thereof; or (e) any and all liabilities or obligations hereunder with respect to the Property arising after the date hereof; provided that any indemnity obligation set forth in this Section 17.1 shall not apply to the extent of any Liabilities (A) caused by an act or omission of any Lessor Indemnified Party or (B) arising under or in connection with Lessor's mining activities conducted by Lessor or any contractor, agent or employee of Lessor on the Property or the Owner's Entire Property. The Lessee's obligation under this Section 17.1 shall survive the termination of this Lease.

17.2 Lessor. Lessor shall indemnify, defend and hold harmless Lessee, its shareholders, members, officers, directors, agents, trustees, lenders, investors, contractors, representatives, employees, including the Lessee Access Parties (collectively and individually, the "Lessee Indemnified Party"), from and against any and all Liabilities, including court costs, experts' fees and all attorneys' fees arising out of, relating to or incurred in connection with, or which may be asserted against Lessee Indemnified Party, or which Lessee Indemnified Party may incur or suffer as a result of: (a) the breach or default by Lessor of any covenant, representation, warranty, or contractual obligation made by Lessor in this Lease, including, but not limited to compliance with all Environmental Matters set out in Section 16; (b) discharging and releasing any lien, partition, assignment, encumbrance, pledge, claim, levy or attachment arising by, under or through Lessor as set forth in Sections 16.3 and Section 16.4; and (c) any injury or damage to life, limb or person or the property or chattel of the Lessee Indemnified Party, including the Solar Power Facilities in each case to the extent caused by the negligence, misconduct, failure, or breach of Lessor, its shareholders, members, officers, directors, agents, trustees, representatives and employees or any thereof whether or not due to negligence or willful misconduct, provided, however, that any indemnity obligation set forth in this Section 17.2 shall not apply to the extent of any Liabilities that would otherwise be indemnified hereunder is caused by any act or omission on the part of Lessee. The Lessor's obligation under this Section 17.2 shall survive the termination of this Lease.

17.3 No Punitive Damages. Notwithstanding anything herein to the contrary, neither party shall be liable to the other for any punitive damages under or arising out of its performance or non-performance of this Lease, whether the claims for such damages are actionable under this Lease, in tort or otherwise (including strict liability), whether at law or in equity other than in respect of claims of any third parties for which a party has an indemnification obligation hereunder.

ARTICLE 18 PERMITTING AND ZONING.

After the Commercial Operation Date, Lessor agrees to cooperate with Lessee in obtaining any Permits necessary for the re-construction, re-installation, operation and maintenance of the Solar Power Facilities and all appurtenances thereto (including the Interconnection Facilities and the Transmission Facilities and Improvements and for the Lessee to perform its obligations under this Lease including obtaining, amending, assigning or transferring to Lessee any Governmental Approvals held by Lessor applicable to the Solar Power Facilities and all appurtenances thereto (including the Interconnection Facilities and the Transmission Facilities and Improvements. If it is reasonably anticipated at the time of obtaining any

Governmental Approval that such Governmental Approval will remain in effect following the expiration of the Lease Term, Lessee shall obtain written approval from Lessor prior to obtaining such Governmental Approval, such approval not to be unreasonably withheld, conditioned or delayed. If Lessee has submitted to Lessor a written request for approval of a Governmental Approval and Lessor fails to respond to such request within thirty (30) days following delivery of such request, such request shall be deemed approved. Lessor shall have no liability to Lessee if Lessee is unable to obtain any Governmental Approval.

ARTICLE 19 UTILITIES.

If requested by Lessee, Lessor may grant to Lessee (at Lessee's sole cost and expense) such additional easements, on terms and conditions satisfactory to Lessee, as shall be reasonably necessary to ensure that utility services continue to be provided to the Property and the Solar Power Facilities in the event that Lessor transfers the Property or any portion thereof, or transfers the whole or any part of the Owner's Entire Property that is not the Property (voluntarily or otherwise). Lessor shall grant Lessee the additional easements if Lessor approves their use and location, which approval shall not be unreasonably withheld, delayed or conditioned.

ARTICLE 20 LEASEHOLD MORTGAGES, ASSIGNMENTS, SUBLEASES & CURE RIGHTS FOR LENDERS.

20.1 Right to Mortgage, Assign and Sublease.

(a) Lessee and each Sublessee shall have the absolute right to transfer, sell, or assign any of its rights or obligations arising under this Lease, in whole or in part and at any time and from time to time, upon the express prior written consent of the Lessor, whose consent or approval shall not unreasonably be withheld, to any Person, provided that, in connection with such transfer, sale or assignment, the provisions of Section 20.4 shall be applied.

(b) Notwithstanding the provisions of Section 20.1 above, Lessee shall have the absolute right at any time and from time to time, without Lessor's prior written consent or approval (but with prior written notice to Lessor) to: (i) assign, encumber, hypothecate, mortgage or pledge (including by mortgage, deed of trust or personal property security instrument), sublease or grant an easement, subeasement or license in, or otherwise transfer all or any portion of its right, title or interest under this Lease, in its Sublease and/or in any Solar Power Facilities to Lessee's Affiliate, to an investment fund managed by Lessee, or to a financing entity or Lender designated by Lessee as security for the repayment of any indebtedness and/or the performance of any obligation or for any other purpose; and (ii) mortgage its leasehold interest hereunder and/or collaterally assign its interest in this Lease and in any monies due under this Lease in connection with obtaining financing for the Solar Power Facilities and all appurtenances thereto (including the Interconnection Facilities and the Transmission Facilities and Improvements, as more fully set forth in Section 20.5 below), or otherwise encumber and grant security interests in all or any part of its interest in this Lease, the Property, the Easements, the Solar Power Facilities, Interconnection Facilities or Transmission Facilities (holders of these various security interests are referred to as "Leasehold Mortgagees"). Any Leasehold Mortgagee that has succeeded to Lessee's interests under this Lease shall also have the right, without Lessor's prior written consent or approval (but with prior written notice to Lessor) to assign or sublet the whole or any portion or portions of its interest in the Property and the Easements for the uses permitted under this Lease, or grant co-leases, separate leases, easements, licenses or similar rights (however denominated) to one (1) or more Creditworthy persons or entities (each, an "Assignee"). Following any such sale, conveyance, lease, assignment or sublet, the term "Lessee" shall be deemed to include each "Assignee" then holding Lessee's interest in this Lease. However, no Leasehold Mortgagee or Assignee shall by virtue of Lessee's conveyance to it acquire any greater interest in the Property or the Easements than Lessee then has under this Lease. The foregoing to the contrary notwithstanding, any sublet or assignment with respect to this Lease will only be effective upon the written assumption by the Assignee of the applicable obligations of Lessee hereunder. As used herein, (A) the term "Sublessee" means any Person that receives a Transfer from Lessee of all or any portion of the right, title or interest under this Lease or in one or more Easements; (B) the term "Sub-Sublease" means the grant or assignment of such rights from Lessee to a Sublessee; and (C) the term "Lender" means any

financial institution or other person or entity that from time to time provides secured financing for some or all of Lessee's or a Sublessee's Solar Power Facilities or Operations, collectively with any security or collateral agent, indenture trustee, loan trustee or participating or syndicated lender involved in whole or in part in such financing, and their respective representatives, successors and assigns. References to Lessee in this Lease shall be deemed to include any Person that succeeds (whether by assignment or otherwise) to all of the then-Lessee's then-existing right, title and interest under this Lease.

20.2 [INTENTIONALLY DELETED].

20.3 Assignment by Lessor. Lessor may not sell, transfer, sell, encumber, assign, pledge or cause to be assumed (together, "Assign"; and any such action, an "Assignment") this Lease, in whole or in part, to any Person unless such Person shall execute a written agreement in form and substance reasonably acceptable to the Lessee under which such Person unconditionally agrees to assume and undertake all duties and responsibilities of "Lessor" hereunder, whether arising prior to the effective date of such Assignment or thereafter or (ii) to lenders or other investors providing financing of the Property in Lessor's sole and absolute discretion, subject, however, to the provisions of this Lease, including, without limitation, the provisions of Article 21.

20.4 Effect of Assignment. If the rights and interests of Lessee in this Lease shall be assigned in accordance with Section 20.1(a) and the assuming party shall agree in writing to be bound by, and to assume, the terms and conditions hereof and any and all obligations to Lessor arising or accruing hereunder from and after the date of such assumption, Lessee shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date, and Lessor shall continue this Lease with the assuming party as if such person had been named as Lessee under this Lease, provided, however, that the assuming party is Creditworthy.

20.5 Financing. Notwithstanding any provisions in this Lease to the contrary, the Lessee may upon written notice to Lessor assign or mortgage, in whole or in part, in connection with any financing of the Solar Power Facilities and all appurtenances thereto (including the Interconnection Facilities and the Transmission Facilities and Improvements), its leasehold interest hereunder and its other rights under this Lease for purposes of securing such financing. Lessor hereby consents to any such assignment, and acknowledges that such assignment shall not release Lessee from its obligations hereunder;

(b) Lessor acknowledges that upon and following an event of default under any financing documents relating to the Solar Power Facilities and all appurtenances thereto (including the Interconnection Facilities and the Transmission Facilities and Improvements), any of the financing sources may (but shall not be obligated to) assume, or cause their designees to assume, all of the interests, rights and obligations of Lessee thereafter arising under this Lease; and

(c) Lessor agrees to enter into a non-disturbance and consent to assignment with any Lender or other applicable financing source (in addition, if applicable, the Non-disturbance, Consent and Recognition Agreement executed and delivered by the Lessee's then chosen Lender, Lessor, and Lessee and attached to the Lease as Exhibit C) which shall include, without limitation, consent by Lessor to the collateral assignment of this Lease, cure rights and step in rights in favor of the Lender or other applicable financing source.

20.6 Mortgagee Assignee Obligations. Any Leasehold Mortgagee or other party who acquires Lessee's leasehold interest pursuant to foreclosure or assignment in lieu of foreclosure that does not directly hold an interest in this Lease, or that holds an interest, lien or security interest in this Lease solely for security purposes, shall have no obligation or liability under this Lease for obligations arising prior to the time such Leasehold Mortgagee or Assignee directly holds an interest in this Lease, or succeeds to title to such interest, or to this Lease. Any such Leasehold Mortgagee or Assignee shall be liable to perform obligations under this Lease only for and during the period it directly holds such interest or title.

20.7 Estoppel Certificates. Within fifteen (15) days after written request therefore, Lessor shall execute such estoppel certificates (certifying as to such truthful matters as Lessee Access Parties,

Assignees or Leasehold Mortgagees may reasonably request, including that no default then exists under this Lease, if such be the case, and that this Lease remains in full force and effect), consents to assignment and non-disturbance agreements as Lessee Access Parties or any Leasehold Mortgagee or Assignee may request from time to time, it being intended that any such estoppel certificates, consents to assignment and the like may be relied upon by any Leasehold Mortgagees or prospective Leasehold Mortgagees, or any Assignees or prospective Assignees of any Leasehold Mortgagees, or any prospective and/or subsequent purchaser or transferee of all or a part of Lessee's interest in the Property, the Easements, the Improvements, the Interconnection Facilities and/or Transmission Facilities and/or the Solar Power Facilities.

20.8 Financing Sources as Third Party Beneficiaries. The provisions of Section 20.5 through Section 20.8, inclusive are for the benefit of the Lenders, Leasehold Mortgagees and Assignees, as well as the Parties hereto, and shall be enforceable by the Lenders, Leasehold Mortgagees and Assignees as express third-party beneficiaries hereof. Lessor hereby agrees that none of the Lenders, Leasehold Mortgagees and Assignees, 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 Lease on the part of Lessee or shall have any obligation or liability to Lessor with respect to this Lease except to the extent any of them becomes a party hereto pursuant to this Article 20 or through the exercise of its rights or remedies and the written assumption of the Lease or the Easement Agreement. Any exercise by the Lenders, Leasehold Mortgagees and Assignees of any rights and remedies hereunder shall be subject to all rights, defenses and remedies available to Lessor, in each case subject to the terms of any non-disturbance, consent and recognition agreement entered into between or among the Lenders, Leasehold Mortgagees and Assignees and Lessor.

ARTICLE 21 MORTGAGEE PROTECTION.

21.1 Leasehold Mortgagee Protection. Notwithstanding any other provisions contained in this Lease to the contrary, any Leasehold Mortgagee shall, for so long as its mortgage or other security interest is in existence, be entitled to the protections set forth in this Article 21, which shall be in addition to those granted elsewhere in this Lease, upon delivery to Lessor of notice of its name and address.

21.2 Leasehold Mortgagee's Right to Possession, Right to Acquire and Right to Assign. A Leasehold Mortgagee shall have the absolute right: (a) to assign its security interest; (b) to enforce its lien and acquire title to Lessee's leasehold estate and easement rights by any lawful means; (c) to take possession of and operate the Property or any portion thereof, in accordance with the terms of this Lease and to perform all obligations to be performed by Lessee under this Lease, or to cause a receiver to be appointed to do so; and (d) to acquire such leasehold estate and easement rights by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer such leasehold estate to a third party.

21.3 Right to Cure Defaults/Notice of Defaults/Assignee's Right to New Lease. To prevent termination of this Lease or any partial interest in this Lease, each Leasehold Mortgagee shall have the right, but not the obligation, at any time prior to termination of this Lease, to perform any act necessary to cure any default and to prevent the termination of this Lease or any partial interest in this Lease. As a precondition to exercising any rights or remedies as a result of any alleged default by Lessee, Lessor shall give written notice of such default to each Leasehold Mortgagee, concurrently with delivery of notice to Lessee, specifying in detail the alleged event of default and the required remedy. Each such Leasehold Mortgagee shall have the same amount of time to cure the default as to Lessee's interest in this Lease as is given to Lessee. The cure period for each Leasehold Mortgagee shall begin to run at the end of the cure period given to Lessee in this Lease.

21.4 Extended Cure Period.

(a) If any default by Lessee under this Lease cannot be cured without the Leasehold Mortgagee obtaining possession of all or part of the Property and/or all or part of the Solar Power Facilities and/or all or part of Lessee's interest in this Lease, then any such default shall be deemed remedied if: (a) within ninety (90) days after receiving notice from Lessor as set forth in Section 21.3, either Leasehold Mortgagee or its Assignee shall have acquired possession of all or part of the Property and/or all or part of

the Solar Power Facilities and/or all or part of such interest in this Lease, or shall have commenced appropriate judicial or non-judicial proceedings to obtain the same; (b) the Leasehold Mortgagee or its Assignee, as the case may be, shall be in the process of diligently prosecuting any such proceedings to completion; and (c) after gaining possession of all or part of the Property and/or all or part of the Solar Power Facilities and/or all or part of such interest in this Lease, the Leasehold Mortgagee or its Assignee performs all other obligations as and when the same are due in accordance with the terms of this Lease, but only for the period attributable to its possession of the Property, provided, however, that either Leasehold Mortgagee or its Assignee shall pay the Rent and perform all the other obligations of Lessee hereunder as of the date that Lessor could have terminated this Lease for an Event of Default. If a Leasehold Mortgagee or its Assignee is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction over any bankruptcy or insolvency proceeding involving Lessee or any defaulting Assignee, as the case may be, from commencing or prosecuting the proceedings described above, the sixty (60) day period specified above for commencing such proceeding shall be extended for the period of such prohibition.

(b) During any period of possession of the Property by a Leasehold Mortgagee (or a receiver requested by such Leasehold Mortgagee) and/or during the pendency of any foreclosure proceedings instituted by a Leasehold Mortgagee, the Leasehold Mortgagee shall pay or cause to be paid the fees and all other monetary charges payable by Lessee under this Lease which have accrued and are unpaid at the commencement of such period and those which accrue thereafter during such period. Following acquisition of Lessee's leasehold estate by the Leasehold Mortgagee, its Assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale (all of which are included in the term "Assignee"), this Lease shall continue in full force and effect and the Leasehold Mortgagee or its Assignee shall, as promptly as reasonably possible, commence the cure of all defaults under this Lease and thereafter diligently process such cure to completion, and upon such completion of the cure of all defaults under the Lease Lessor's right to terminate this Lease based upon such defaults shall be deemed waived; provided, however, that the Leasehold Mortgagee or such party acquiring title to Lessee's leasehold estate shall not be required to cure those defaults which are not reasonably susceptible of being cured or performed by such party ("Non-curable defaults"). Non-curable defaults shall be deemed waived by Lessor upon completion of foreclosure proceedings or acquisition of Lessee's interest in this Lease by such party.

(c) Any Leasehold Mortgagee or other party who acquires Lessee's leasehold interest, pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on Lessee by this Lease incurred or accruing after the Leasehold Mortgagee no longer has ownership of the leasehold estate or possession of the Property.

(d) Neither the bankruptcy nor the insolvency of Lessee shall be grounds for terminating this Lease as long as all Rent and all other monetary charges payable by Lessee under this Lease are promptly paid by the Leasehold Mortgagee in accordance with the terms of this Lease. The acceptance of Rent by Lessor shall not be deemed a waiver of any other rights or remedy it may have under the Lease at law or in equity.

21.5 New Lease.

(a) If this Lease terminates for any reason, including because of Lessee's default or if the leasehold estate is foreclosed, or if this Lease is rejected or disaffirmed pursuant to bankruptcy Applicable Requirements or other Applicable Requirements affecting creditor's rights and, within ninety (90) days after such event, Lessee or any Leasehold Mortgagee shall have arranged to the absolute satisfaction of Lessor for the payment of all fees or other charges due and payable by Lessee as of the date of such event, then Lessor shall execute and deliver to such Leasehold Mortgagee or its Assignee or designee, as the case may be, a new lease to the Property which (a) shall be for a term equal to the remainder of the Lease Term before giving effect to such rejection or termination; (b) shall contain the same covenants, agreements, terms, provisions and limitations as this Lease (except as otherwise provided in this Section 21.5(a) and for any requirements that have been fulfilled by Lessee or any Leasehold Mortgagee or its Assignee prior to rejection or termination of this Lease); and (c) shall include that portion

of the Solar Power Facilities in which Lessee had an interest on the date of rejection or termination. Leasehold Mortgagee shall pay all of Lessor's reasonable legal fees associated with a new lease of the Property.

(b) After the termination, rejection or disaffirmation of this Lease and during the period thereafter during which any Leasehold Mortgagee shall be entitled to enter into a new lease of the Property, Lessor will not terminate any sublease or the rights of any sublessee unless such sublessee shall be in default under such sublease.

(c) If more than one (1) Leasehold Mortgagee makes a written request for a new lease pursuant to this provision, the new lease shall be delivered to the Leasehold Mortgagee requesting such new lease whose mortgage is prior in lien, and the written request of any other Leasehold Mortgagee whose lien is subordinate shall be void and of no further force or effect.

(d) The provisions of this Article 21 shall survive the termination, rejection or disaffirmation of this Lease and shall continue in full force and effect thereafter to the same extent as if this section were a separate and independent contract made by Lessor, Lessee and each Leasehold Mortgagee, and, from the effective date of such termination, rejection or disaffirmation of this Lease to the date of execution and delivery of such new lease, such Leasehold Mortgagee may use and enjoy said Property in accordance with the terms of such new lease, provided that all of the conditions for a new lease as set forth above are complied with.

21.6 Mortgagee's Consent to Amendment, Termination or Surrender. Notwithstanding any provision of this Lease to the contrary, the parties agree that so long as there exists an unpaid Leasehold Mortgagee, this Lease shall not be terminated, modified or amended, and Lessor shall not accept a surrender of all or any part of the Property or a cancellation or release of this Lease from Lessee, prior to expiration of the Lease Term without the prior written consent of the Leasehold Mortgagee, provided, however, that Lessor shall be permitted to terminate this Lease without the consent of Leasehold Mortgagee if (a) such termination resulted from an Event of Default, and (b) Leasehold Mortgagee was provided notice in accordance with Section 21.3 and the right to cure such default for a period of ninety (90) days following such notice, and failed to cure such default within such period.

21.7 No Merger. There shall be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Property or in the Property by reason of the fact that this Lease or the leasehold estate or any interest in the leasehold estate may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Property or in the Property, and all persons (including each Leasehold Mortgagee) having an interest in this Lease or in the estate of Lessor and Lessee shall join in a written instrument effecting such merger and shall duly record the same.

21.8 Non-Disturbance. Promptly, but in no event later than ten (10) business days following request by Lessee or any Leasehold Mortgagee, Lessor shall execute a non-disturbance, consent and recognition with Lessee and such Leasehold Mortgagee substantially in the form of the Non-disturbance, Consent and Recognition Agreement attached to the Lease as Exhibit C. Lessor agrees to cause any monetary liens placed on the Property by it in the future to incorporate the conditions of this Section 21.8.

21.9 Damage/Condemnation. The disposition of any condemnation award and/or casualty insurance proceeds shall be allocated among Lessor, Lessee, any Leasehold Mortgagee or Assignee as their interests may appear.

21.10 Further Amendments. At Lessee's request, Lessor shall amend this Lease to include any provision that may reasonably be requested by a proposed Leasehold Mortgagee, provided that such amendment does not impair any of Lessor's rights hereunder or increase the burdens or obligations of Lessor hereunder. Upon the request of any Leasehold Mortgagee, Lessor shall execute any additional instruments reasonably required to evidence such Leasehold Mortgagee's rights under this Lease. Lessor

shall be reimbursed by Lessee for reasonable attorneys' fees incurred in connection the review of any such request.

21.11 Enforcement. The provisions of Article 20 and 21 of this Lease are for the express benefit of and shall be enforceable by each Lender, Assignee and Leasehold Mortgagee as if it were a party named in this Lease.

ARTICLE 22 CONDEMNATION AND CASUALTY.

22.1 Condemnation. If, at any time during the Lease Term, any authority having the power of eminent domain shall condemn a portion of the Property, the Easements, the Solar Power Facilities or the Transmission Facilities for any public use or otherwise, such that the operation of the Solar Power Facilities becomes, in the reasonable discretion of Lessee, impractical by materially reducing the number of Generating Units or materially impacting access to the Property, then Lessee may terminate this Lease without incurring any liability to Lessor with respect to such termination by giving written notice to Lessor indicating the effective date of such termination except that Lessee will have responsibility to remove the Transmission Facilities and the Solar Power Facilities from the Property and from the Owner's Entire Property. Lessee shall have the right to exercise its termination option only within the six (6) month period after the Lessee receives knowledge of the condemnation.

22.2 Apportionment, Distribution of Award. Subject to Section 21.9, all sums awarded, including damages and interest, shall be divided as follows and in the order of priority listed:

(a) First, Lessor shall be entitled to receive payment for the taking of the real property constituting the Property (including any "bonus value" in this Lease).

(b) Second, Lessee shall be entitled to receive payment for any cost or loss that Lessee may sustain in the taking, removal and/or relocation of the Solar Power Facilities, the Easements, the Transmission Facilities or the Interconnection Facilities, if any.

(c) Third, Lessee and Lessor shall each be entitled to receive payment for 50% of Lessee's anticipated or lost revenues that would have been generated by the Solar Power Facilities.

(d) Fourth, Lessor and Lessee shall each be entitled to receive payment for 50% of Lessor's anticipated or lost revenues under this Lease.

(e) Fifth, all remaining amounts of the award shall be paid to Lessor.

22.3 Casualty. In the event of a casualty to the Solar Power Facilities resulting in the destruction of all or any material portion of the Solar Power Facilities, Lessee may, in its sole discretion, elect to repair or reconstruct the Solar Power Facilities or terminate and cancel this Lease upon written notice to Lessor given within ninety (90) days following the occurrence of said casualty, and in such event Lessee shall have no liability by reason of such termination and neither party shall have any further rights or obligations hereunder other than those rights or obligations arising prior to such termination that are expressly stated to survive expiration or termination of this Lease including the responsibility of Lessee according to Lessee's Removal Obligation to remove the Transmission Facilities and the Solar Power Facilities from the Property.

ARTICLE 23 DEFAULT AND TERMINATION.

23.1 Default by Lessee. Subject to the provisions of Section 21.2, Section 21.3, Section 21.4 and Section 21.5, the occurrence of any of the following shall constitute an event of default ("Event of Default") on the part of Lessee:

(a) A default in the payment by Lessee of Rent under this Lease shall have occurred and remains uncured for ten (10) days after written notice to Lessee;

(b) A default by Lessee under this Lease, other than a default in the payment of Rent as provided in Section 23.1(a) above, shall have occurred and remains uncured for thirty (30) days after Lessor provides Lessee with written notice of such default; provided, however, that if such default is not reasonably capable of being cured within such thirty (30) day period, Lessee shall have such longer period as is reasonably necessary to remedy such default so long as Lessee continuously and diligently pursues such remedy at all times until such default is cured;

(c) Abandonment of the Property after the Commercial Operation Date, where such abandonment continues for a period of thirty (30) days after written notice thereof by Lessor to Lessee;

(d) If Lessee shall (a) become insolvent or generally unable to pay its debts as they become due; (b) apply for, consent to, or acquiesce in the appointment of a trustee, receiver, sequestrator or other custodian for it or any of its property, or make a general assignment for the benefit of its creditors; (c) in the absence of any such application, consent or acquiescence, permit or suffer to exist the appointment of a trustee, receiver, sequestrator or other custodian for it or a substantial portion of its property, and such trustee, receiver, sequestrator or other custodian shall not be discharged within sixty (60) days; (d) permit or suffer to exist the commencement of any bankruptcy, reorganization, debt arrangement or other case or proceeding under any bankruptcy or insolvency Applicable Requirements, or any dissolution, winding up or liquidation proceeding, in respect of it, and, if any such case or proceeding shall be consented to or acquiesced in by it or shall result in the entry of an order for relief or shall remain for sixty (60) days without such being dismissed; or (e) take any formal action authorizing or in furtherance of any of the foregoing; or

(e) Lessee shall default in the payment of sums due to Lessor under that certain Letter Agreement dated January 18, 2012 by and between the Lessor and Lessee in respect of reimbursement by Lessee to Lessor of certain costs associated with the Project previously paid by Lessor.

23.2 Remedies of Lessor. Upon the occurrence of an Event of Default, Lessor shall have all of the rights of a lessor at law or in equity, including the following:

(a) Subject to the provisions of Sections 21.3, Section 21.4, Section 21.5 and Section 21.5, and after expiration of the applicable cure periods specified therein and herein, Lessor shall have the right to terminate this Lease, and at any time thereafter recover possession of the Property or any part thereof through legal action and expel and remove therefrom Lessee and any other person occupying the same, by any lawful means, and again repossess and enjoy the Property without prejudice to any of the remedies that Lessor may have under this Lease, or at law or equity by reason of Lessee's default or of such termination.

(b) The right to seek removal as set forth in Section 24.

(c) Pursue any remedies available to it at law or in equity including damages, specific performance, injunction, or other equitable relief.

All of the remedies permitted or available to Lessor under this Lease, or at law or in equity, shall be cumulative and not alternative and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

23.3 Default by Lessor. The occurrence of any of the following shall constitute an event of default ("Lessor Default") on the part of Lessor:

(a) A default in the payment by Lessor of amounts owed by Lessor to Lessee under this Lease shall have occurred and remains uncured for thirty (30) days after written notice to Lessor;

(b) A default by Lessor under this Lease, other than a default in the payment of amounts owed by Lessor to Lessee as provided in Section 23.3(a) above, shall have occurred and remains uncured for thirty (30) days after Lessor provides Lessee with written notice of such default; provided, however, that if such default is not reasonably capable of being cured within such thirty (30) day period, Lessor shall have such longer period as is reasonably necessary to remedy such default so long as Lessor continuously and diligently pursues such remedy at all times until such default is cured; or

(c) If Lessor shall: (a) become insolvent or generally unable to pay its debts as they become due; (b) apply for, consent to, or acquiesce in the appointment of a trustee, receiver, sequestrator or other custodian for it or any of its property, or make a general assignment for the benefit of its creditors; (c) in the absence of any such application, consent or acquiescence, permit or suffer to exist the appointment of a trustee, receiver, sequestrator or other custodian for it or a substantial portion of its property, and such trustee, receiver, sequestrator or other custodian shall not be discharged within sixty (60) days; (d) permit or suffer to exist the commencement of any bankruptcy, reorganization, debt arrangement or other case or proceeding under any bankruptcy or insolvency Applicable Requirements, or any dissolution, winding up or liquidation proceeding, in respect of it, and, if any such case or proceeding shall be consented to or acquiesced in by it or shall result in the entry of an order for relief or shall remain for sixty (60) days without such being dismissed; or (e) take any formal action authorizing or in furtherance of any of the foregoing.

23.4 Remedies of Lessee. Upon the occurrence of a Lessor Default, which is not cured by Lessor or Lessor's assignee, Lessee shall have all of the rights of a lessee at law or in equity, including the following:

(a) do or cause to be done, on behalf of and for the account of Lessor, whatever Lessor is obligated to do under the terms of this Lease, and Lessor agrees to reimburse Lessee with interest at the Default Rate on demand for any and all costs and expenses, including reasonable attorneys' fees, which Lessee may incur in thus effecting compliance with Lessor's obligations under this Lease (or Lessee, at its option, may elect to offset any such amounts against rents or other amounts due and owing hereunder);

(b) subject to the requirements of Section 24, terminate this Lease by written notice to Lessor and, in connection therewith: (a) remain on the Property and continue, in its sole discretion, to operate the Solar Power Facilities, and to continue, without limitation, to sell electricity generated by the Solar Power Facilities to any Person and sell any and all Environmental Attributes (including SRECs) and receive the sole benefit of any and all Environmental Attributes and Renewable Energy Incentives, and other items of whatever nature which are available as a result of solar energy being produced from the Solar Power Facilities; and/or (b) remove all or some of the tangible property comprising the Solar Power Facilities from the Property at Lessor's expense; or

(c) exercise or pursue any remedies available to it at law or in equity, including damages, specific performance, injunctive or other equitable relief, or exercise any remedies under this Lease.

ARTICLE 24 REMOVAL.

Upon the termination or expiration of this Lease, Lessee shall as soon as reasonably practicable thereafter, but no later than three (3) months thereafter, remove all of the Solar Power Facilities and any Interconnection Facilities in accordance with the Removal Obligations, except for any part thereof which Lessor agrees in writing may remain on the Property, and restore the Property to the condition it was in on the Commencement Date, to the greatest extent practicable. In connection with the foregoing, Lessor shall grant Lessee all necessary or reasonably required rights of ingress and egress to and from the Property in order for Lessee to perform its Removal Obligations, provided that no such access shall unreasonably interfere with the rights of any licensee or lessee of Lessor with respect to the Property. Rent shall continue to be paid as Holdover Rent in accordance with Section 9.2 during the period in which Tenant conducts and satisfies to the reasonable satisfaction of the Lessor all Removal Obligations.

Subject to the next paragraph, within sixty (60) days following the twentieth (20th) anniversary of the Rent Commencement Date, Lessee shall deliver to Lessor the removal cost report required to be issued by Lessee to the Town of Bolton pursuant to the Permit issued by the Town of Bolton in regard to the installation of the Solar Power Facilities on the Property which report shall detail the fair market value of the cost of removing the Solar Power Facilities and Interconnection Facilities in their entirety from the Property at the end of the Lease Term less any revenues from selling such Solar Power Facilities and Interconnection Facilities as the scrap materials. Following written confirmation by Town of Bolton and Lessee of the agreed net removal cost, which confirmation shall not be unreasonably delayed or withheld, Lessee shall then deliver within sixty (60) days of such agreement a Solar Power Facilities and Interconnection Facilities cash escrow pursuant to the terms of an escrow agreement by and between the Town of Bolton and the Lessee in the amount of the agreed Solar Power Facilities and Interconnection Facilities net removal cost, which shall provide security for removal and decommissioning costs in the event Lessee fails to perform its decommissioning and Removal Obligations at the end of the Lease Term. The Parties agree that the cash escrow and its application under such escrow agreement shall limit Lessor's remedies in the event Lessee fails to perform the Removal Obligations.

ARTICLE 25 RIGHT OF FIRST REFUSAL.

During the Lease Term, Lessor shall have the right to sell the Property; provided, however, Lessee shall have a First Right of Refusal to purchase (a) the Property or (b) any subdivided or un-subdivided portion thereof (each, the "Property Subject to RFR"). Upon Lessor's receipt of a bona-fide offer from a third party with regard to such purchase, Lessor shall offer such Property Subject to RFR to Lessee at the price and on the terms set forth in said such bona-fide third party offer. Lessee shall have ten (10) business days from the presentation of such offer within which to elect to purchase such Property Subject to RFR on the terms set forth in said offer and, within thirty (30) days of such election, the Parties shall enter into a contract for sale of real estate for such Property Subject to RFR incorporating such terms. In the event (a) Lessee elects not to exercise its right of first refusal or fails to give timely notice of its decision to exercise, and (b) Lessor receives, after six (6) months from Lessee's failure or refusal to exercise its prior right of first refusal, a new bona fide offer for any available contiguous space, then Lessee's right of first refusal shall renew. This process of renewal of Lessee's right of first refusal will repeat for any subsequent bona fide offers..

ARTICLE 26 MISCELLANEOUS.

26.1 Covenants Running with the Land. All of the Easements, covenants, agreements, conditions and restrictions set forth in this Lease are effective as of the Effective Date with respect to the lease of the Property by Lessee and are intended to be and shall be construed as covenants that burden and run with the Property or the Owner's Entire Property as may be applicable.

26.2 Successors and Assigns. This Lease shall inure to the benefit of and be binding upon Lessor and Lessee, their heirs, successors and assigns (including each Assignee). Lessor agrees that the rights of Lessee under this Lease shall extend to agents, representatives, employees, contractors, subcontractors and other service providers of Lessee.

26.3 Memoranda. Lessor and Lessee shall execute in recordable form, one or more memoranda in form and substance satisfactory to Lessee and Lessor containing so much of the terms of this Lease as Lessee reasonably requires to ensure the priority of this Lease, Lessee's lease of the Property and the Easements. Any amendment to this Lease and between the parties hereto (or any related memoranda reflecting any such amendments) shall be recorded in the Land Records.

26.4 Notices. Any notice required under this Lease shall be in writing and shall be sent to the appropriate notice address by: (a) personal delivery; (b) overnight delivery using a nationally recognized overnight courier; (c) United States mail, postage prepaid, certified mail, return receipt requested; or (d) electronic mail addressed to the electronic mail address set forth in the notice address below with a confirmation copy delivered by another method permitted under this Section 26.4. Notice given in any form permitted herein, other than by facsimile transmission and electronic mail will be effective upon the

earlier to occur of actual delivery to the Notice Address of the addressee or refusal of receipt by the addressee. Notice by facsimile transmission follows the same rule unless it is delivered on a non-business day or after 5:00 p.m. local time, in which event such notice will be effective the next business day. Notice given by electronic mail will be effective upon the entrance of such electronic mail into the information processing system designated by the recipient's electronic mail address, unless it occurs on a non-business day or after 5:00 p.m., in which event such notice will be effective the next business day. Any party may change its notice address by delivering appropriate written notice to the other party in the manner described above; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice by the addressee.

if to Lessor:

Davis Farms Trust
c/o Bolton Orchards
125 Still River Road, Bolton, Massachusetts 01740

if to Lessee:

MM Solar Holdings II, LLC



With a copy to:

MS Solar Holdings, Inc.



If to any Leasehold Mortgagee: at the address indicated in the notice to Lessor provided under Section 20, above or, if none, at the address in the recorded instrument evidencing its leasehold mortgage.

26.5 [Intentionally Left Blank.]

26.6 Tax Credit. If a change in Applicable Requirements renders Lessee ineligible for (a) any tax credit, benefit or tax incentive for alternative energy expenditure established by any local, state or federal government or (b) any investment tax credits under Section 48 of the Internal Revenue Code with respect to the Solar Power Facilities, then, at Lessee's option, Lessor and Lessee shall reasonably cooperate in good faith, at no cost to Lessor, to amend this Lease or replace it with a different instrument so as to make Lessee eligible for such tax credits, benefits or incentives with respect to the Solar Power Facilities, provided that Lessor shall have at least the same rights and benefits (including the amount of Rent) and no greater obligations than Lessor has under this Lease.

26.7 Force Majeure. If performance of this Lease or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of Force Majeure, the affected party, upon giving notice to the other party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference. The affected party shall use all reasonable efforts to avoid or remove such causes of nonperformance and shall resume or continue performance promptly upon the removal of such causes. If, at any time during the term of this Lease, an event of Force Majeure (i) renders the operation of the Solar Power Facilities, in the reasonable discretion of Lessee, impractical (economically or otherwise), and (ii) lasts for a period of six (6) months or longer, then Lessee may terminate this Lease without incurring any liability to Lessor with respect to such termination by giving written notice to Lessor indicating the effective date of such termination, provided, however, that in the event of termination Lessee shall remain obligated to perform the Removal Obligations. The occurrence of

an event of Force Majeure shall not excuse the payment of Rent until such time as this Lease is terminated as provided in this Section.

26.8 Severability. In the event that any provisions of this Lease are held to be unenforceable or invalid by any court or regulatory agency of competent jurisdiction, Lessor and Lessee shall negotiate an equitable adjustment in the provisions of this Lease with a view toward effecting the purposes of this Lease, and the validity and enforceability of the remaining provisions hereof shall not be affected thereby.

26.9 Entire Agreement; Amendments. This Lease, the Letter Agreement referred to in Section 23.1(e) and the Easements constitute the entire agreement between Lessor and Lessee respecting the subject matter herein and it replaces and supersedes any prior agreements. This Lease and the Letter Agreement shall not be modified or amended except in writing signed by both Parties or their lawful successors in interest.

26.10 Legal Matters. This Lease shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts. The Parties agree to first attempt to settle any dispute arising out of or in connection with this Lease by good-faith negotiation. The parties irrevocably submit to the personal jurisdiction of any federal court located in the Commonwealth of Massachusetts that may properly exercise subject matter jurisdiction, and waive any objection to the jurisdiction of such court, including, without limitation, objections that such forum is inconvenient or prejudicial. The Parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either Party shall not be employed in the interpretation of this Lease, and is hereby waived. If either Party hereto brings any proceedings to enforce any of the terms, covenants, or conditions hereof, the prevailing Party shall be entitled to recover from the other Party or Parties reimbursement for all reasonable expenses, costs and attorneys' fees incurred in connection therewith. Time is of the essence with regard to the terms and conditions of this Lease.

26.11 Partial Invalidity. Should any provision of this Lease be held, in a final and unappealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable: (a) the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding; and (b) Lessor and Lessee shall negotiate an equitable adjustment in the provisions of this Lease with a view toward effecting the purposes of this Lease, and the validity and enforceability of the remaining provisions hereof shall not be affected thereby. Notwithstanding any other provision of this Lease, the Parties agree that in no event shall the Lease Term be for a longer period than the longest period therefore permitted by Applicable Requirements.

26.12 Further Assurances. The Parties hereto shall at all times hereafter execute any documents and do any further acts that may be necessary or desirable to carry out the purposes of this Lease.

26.13 Counterparts. This Lease may be executed with counterpart signature pages and in duplicate originals, each of which shall be deemed an original, and all of which shall collectively constitute a single instrument.

26.14 Rules of Interpretation. For purposes of this Lease, except where otherwise expressly provided or unless the context otherwise necessarily requires:

(a) references to this Lease shall include a reference to all appendices, annexes, schedules and exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time;

(b) the words "herein," "hereof," "hereunder" and "herewith" shall refer to this Lease as a whole and not to any particular section or subsection of this Lease;

(c) the terms “include,” “includes” and “including” shall be construed to mean “including, without limitation” or “including but not limited to” and shall not be construed to mean that the examples given are an exclusive list of the topics covered;

(d) references to “Sections,” or “Exhibits” shall be to sections, exhibits of this Lease;

(e) the introductory paragraph hereof, all Recitals and all Exhibits are incorporated herein;

(f) references to a given agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made;

(g) references to a Person include its successors and permitted assigns;

(h) the singular shall include the plural and the masculine shall include the feminine and neuter and vice versa;

(i) reference to a given governmental rule is a reference to that governmental rule and the rules and regulations adopted or promulgated thereunder, in each case, as amended, modified, supplemented or restated as of the date on which the reference is made; and

(j) titles and headings are included in this Lease for convenience only, and should not be used for the purpose of construing and interpreting this Lease.

26.15 No Dedication. Nothing herein shall be construed as the dedication by either Party of Solar Power Facilities to the public or any part thereof. Neither Party shall take any action that would subject the other Party, or the Solar Power Facilities, to the jurisdiction of any Governmental Authority or public utility or similar entity. 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 Lease.

26.16 Confidentiality. Lessor agrees that the terms and conditions of this Lease, and any documentation or information provided by Lessee to Lessor in connection with the Lease (including, without limitation, the various payments due under the Lease) shall be kept confidential, subject to county, state, or federal laws that require disclosure or reporting of any of the foregoing documentation or information; *provided, however*, that Lessor may disclose the contents of this Lease to Lessor’s attorneys, accountants, other professional persons and immediate family members, so long as said persons are advised that said information is confidential, and such persons agree to keep such documentation and information confidential. Given the importance of confidentiality to Lessee as to its development of the Solar Power Facilities, Lessor agrees that Lessee shall be entitled to an injunction or other equitable relief against Lessor in the event of a breach by Lessor of this Section 26.16, as well as for economic damages Lessee may incur as a result of such breach (including, without limitation, in the event that Lessor breaches this Section 26.16 by providing confidential information to a company or the agent or representative of a company engaged in solar energy development).

[Signature Page Follows]

IN WITNESS WHEREOF, Lessee and Lessor have executed this Solar Site Lease Agreement the day and date first above:

DAVIS FARMS TRUST

By: 

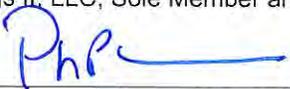
Name **Robert S. Davis**

Title **Trustee**

Date **7/19/2013**
Signed

SYNCARPHA BOLTON, LLC

By MM Solar Holdings II, LLC, Sole Member and Manager, by MM Solar Parent, LLC Sole Member and Manager

By: 

Name:

Title: **CFO**

Date **7/16/2013**
Signed

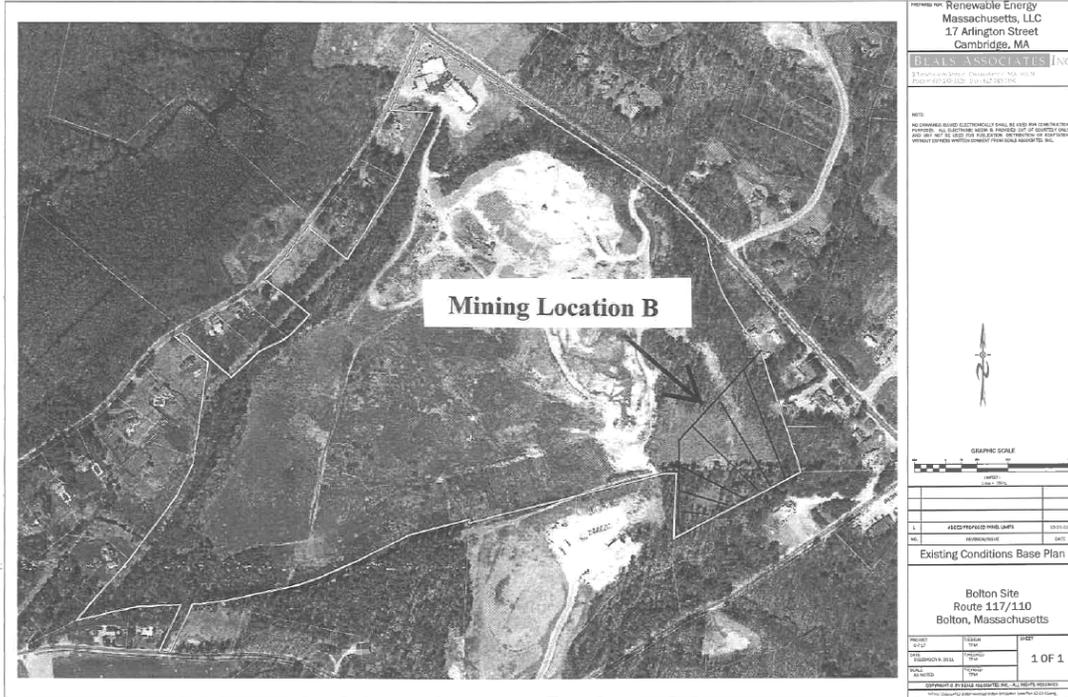
SCHEDULE A TO LEASE AGREEMENT

Base Rent

Operating Year	Base Rent
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SCHEDULE B TO LEASE AGREEMENT

Mining Location B



PROJECT NO: Renewable Energy
 Massachusetts, LLC
 17 Arlington Street
 Cambridge, MA

DEALS ASSOCIATES INC
 2100 South Street, Cambridge, MA 02138
 Phone: 617.452.1122 Fax: 617.452.1176

NOTE:
 NO CHANGE SHOULD ELECTRONICALLY SHALL BE USED FOR CONSTRUCTION PURPOSES. THE ELECTRONIC COPY IS PROVIDED AS A CONVENIENCE ONLY AND DOES NOT CONSTITUTE A CONTRACT. ANY DISCREPANCY BETWEEN THE ELECTRONIC COPY AND THE ORIGINAL DRAWING SHALL BE RESOLVED BY THE ORIGINAL DRAWING.

GRAPHIC SCALE
 1" = 100'

NO.	REVISION/DATE	DATE
1.	ISSUED FOR PERMITS	03/15/11

Existing Conditions Base Plan

Bolton Site
 Route 117/110
 Bolton, Massachusetts

PROJECT NO.	DATE	SHEET
RENEWABLE ENERGY	03/15/11	1 OF 1

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 11111 South Street, Cambridge, MA 02138

SCHEDULE C TO LEASE AGREEMENT



Mining Site Access Road

EXHIBIT A TO LEASE AGREEMENT

Property Description

Metes and Bounds Description of Lot 1A, Still River Road, Bolton, Massachusetts:

Real property situated on the southerly side of Still River Road in the Town of Bolton, Worcester County, Commonwealth of Massachusetts and shown as **Lot 1A** on a plan entitled, "Plan of Land in Bolton, Mass. Owned by Davis Farms Trust", dated November, 2012, being Plan L-11821A by David E. Ross Associates, Inc., recorded in Worcester South Registry of Deeds as **Plan Book 898, Plan 110**. Lot 1A is further bounded and described as follows:

Beginning At an point on the southerly line of the 1915 County Highway layout of Still River Road at land nor or formerly of John A. and Constance J. Kennedy. Said point being located S 38° 15' 34" E two and 38/100 (2.38') feet from a concrete bound;

Thence Along a curve to the left with a radius of four hundred fifty and 00/100 (450.00') feet an arc length of nine and 03/100 (9.03') feet by Still River Road to a concrete bound at the point of tangency;

Thence N 53° 45' 36" E one hundred ninety and 97/100 (190.97') feet by Still River Road to an iron rod set at the corner of Lot 2A;

Thence S 30° 35' 20" E two hundred nine and 00/100 (209.00') feet to an iron rod set ;

Thence S 86° 06' 12" E two hundred eighty eight and 79/100 (288.79') feet to an iron rod set;

Thence S 66° 17' 00" E six hundred sixty two and 00/100 (662.00') feet to an oak stake set;

Thence S 02° 06' 00" E four hundred ten and 20/100 (410.20') feet to an iron rod set;

Thence S 28° 52' 00" E two hundred thirty seven and 75/100 (237.75') feet to an iron rod set;

Thence S 46° 46' 00" E ninety two and 05/100 (92.05') feet to an iron rod set;

Thence S 31° 17' 00" W four hundred forty seven and 00/100 (447.00') feet to an iron rod set at land of the Town of Bolton. The previous seven courses run by Lot 2A, owned by Davis Farms Trust;

Thence S 86° 19' 36" W three hundred fifty five and 50/ 100 (355.50') feet to a point;

Thence N 88° 29' 22" W four hundred nine and 12/100 (409.12') feet to a point;

Thence S 78° 50' 02" W two hundred thirty five and 07/100 (235.07') feet to a point;

Thence S 82° 00' 17" W one hundred ninety eight and 68/100 (198.68') feet to a point;

Thence S 86° 06' 07" W one hundred sixteen and 33/100 (116.33') feet to a point;

Thence N 85° 59' 00" W two hundred fifty seven and 63/100 (257.63') feet to a point at land of Nashoba Valley Realty, Inc. Said point being located N 29° 06' 23" E eighteen and 22/100 (18.22') feet from a concrete bound found on the division line between lands of the Town of Bolton and Nashoba Valley Realty, Inc. The previous six courses run by land of the Town of Bolton and by the centerline of former "Sand Road", discontinued and abandoned by Town Meeting vote on May 4, 1992;

Thence N 85° 59' 00" W one hundred two and 78/10 (102.78') feet to a point;

Thence N 81° 11' 11" W one hundred nineteen and 91/100 (119.91') feet to a point;

Thence N 74° 46' 08" W one hundred fifty three and 64/100 (153.64') feet to a point at land of Bennet B. and Minotti Beckner. Said point being located N 40° 14' 16" E eighteen and 21/100 (18.21') feet from a concrete bound found on the division line between lands of said Beckner and Nashoba Valley Realty, Inc. The previous three courses run by land of Nashoba Valley Realty, Inc. and by the centerline of former "Sand Road" referenced above;

Thence N 74° 46' 08" W one hundred thirty six and 20/100 (136.20') feet by land of said Beckner and by the centerline of former "Sand Road" to a point;

Thence N 81° 45' 15" W one hundred twenty eight and 28/100 (128.28') feet by land of said Beckner and by the centerline of former "Sand Road" to a point at land of Kevin M. and Jacky-Ann Foster;

Thence S 89° 50' 16" W one hundred ninety one and 13/100 (191.13') feet by land of said Foster and the centerline of former "Sand Road" to a point on the centerline of discontinued "Old County Road No. 0" at land of Susan K. Bushman. "Old County Road 0" was discontinued by County Commissioner's Decree No. 3513, dated October 4, 1988;

Thence N 77° 49' 35" E forty one and 82/100 (41.82') feet to a point;

Thence N 55° 08' 25" E sixty five and 12/100 (65.12') feet to a point;

Thence N 55° 06' 01" E two hundred ninety two and 85/100 (292.85') feet to a point at land of Zhengyu Long and Min Qiu. The previous three courses run by land of said Bushman and by the centerline of discontinued "Old County Road No. 0";

Thence N 50° 22' 59" E three hundred seventy nine and 05/100 (379.05') feet to a point;

Thence N 43° 56' 23" E seventy and 83/100 (70.83') feet to a point;

Thence N 39° 15' 28" E ninety two and 40/100 (92.40') feet to an iron rod found at land of Daniel M. and Christine A. Miller. The previous three courses run by land of said Long and Qiu and by the centerline of discontinued "Old County Road No. 0";

Thence N 39° 15' 28" E fourteen and 50/100 (14.50') feet by land of said Miller and by centerline of discontinued "Old County Road No. 0" to a point;

Thence N 21° 32' 22" E one hundred nine and 38/100 (109.38') feet by land of said Miller and by the centerline of discontinued "Old County Road No. 0" to an iron rod found at land of Paul M. and Staci L. Missaggia;

Thence N 21° 32' 22" E three hundred sixty four and 30/100 (364.30') feet by land of said Missaggia and by the centerline of discontinued "Old County Road No. 0" to a point;

Thence N 39° 46' 18" W two hundred eight and 06/100 (208.06') feet by land of said Missaggia to a point on the southerly line of the 1915 County Layout of Still River Road;

Thence N 73° 33' 36" E forty and 00/100 (40.00') feet by Still River Road to a found stone bound at land of Herbert R. and Pantiva Batson;

Thence S 33° 48' 04" E three hundred and 47/100 (300.47') feet by land of said Batson to a point;

Thence N 60° 24' 08" E one hundred forty seven and 76/100 (147.76') feet by land of said Batson to the base of a tipped concrete bound at land of Robert E. and Phyllis J. Tobin;

Thence N 72° 21' 26" E one hundred sixty seven and 40/100 (167.40') feet by land of said Tobin to a concrete bound found at land of John A. and Constance J. Kennedy;

Thence N 62° 50' 53" E one hundred fifty two and 87/100 (152.87') feet by land of said Kennedy to a found concrete bound;

Thence N 38° 15' 34" W two hundred sixty three and 74/100 (263.74') feet by land of said Kennedy to the point of beginning.

Containing **Lot 1A containing 53.91 Acres.**

Subject to Lot 1A is subject to a **30' Wide Tennessee Gas Pipeline Easement** described in Worcester South Registry of Deeds Book 13895, Page 372.

Subject Lot 1A is to be made subject to a **30' Wide Access Easement "B"** shown on a plan entitled, "ALTA/ACSM Land Title Survey in Bolton, Mass., prepared for Syncarpha Bolton, LLC", being Plan No. L-11821B dated March, 2013. **Access Easement "B"** is for the benefit of Lot 2A to access mining area in the general southwest portion of Lot 1A;

Benefitting Lot 1A is to benefit from a **20' Wide Access Easement "A"** shown on the above mentioned plan. **Access Easement "A"** runs from Still River Road to Lot 1A over Lot 2A for the benefit of Lot 1A.

Lot 1A is a portion of land described in Worcester South Registry of Deeds book 3888, page 400 and book 3586, page 427 to Davis Farms Trust.

Depiction of Lot 1A, Still River Road, Bolton, Massachusetts:

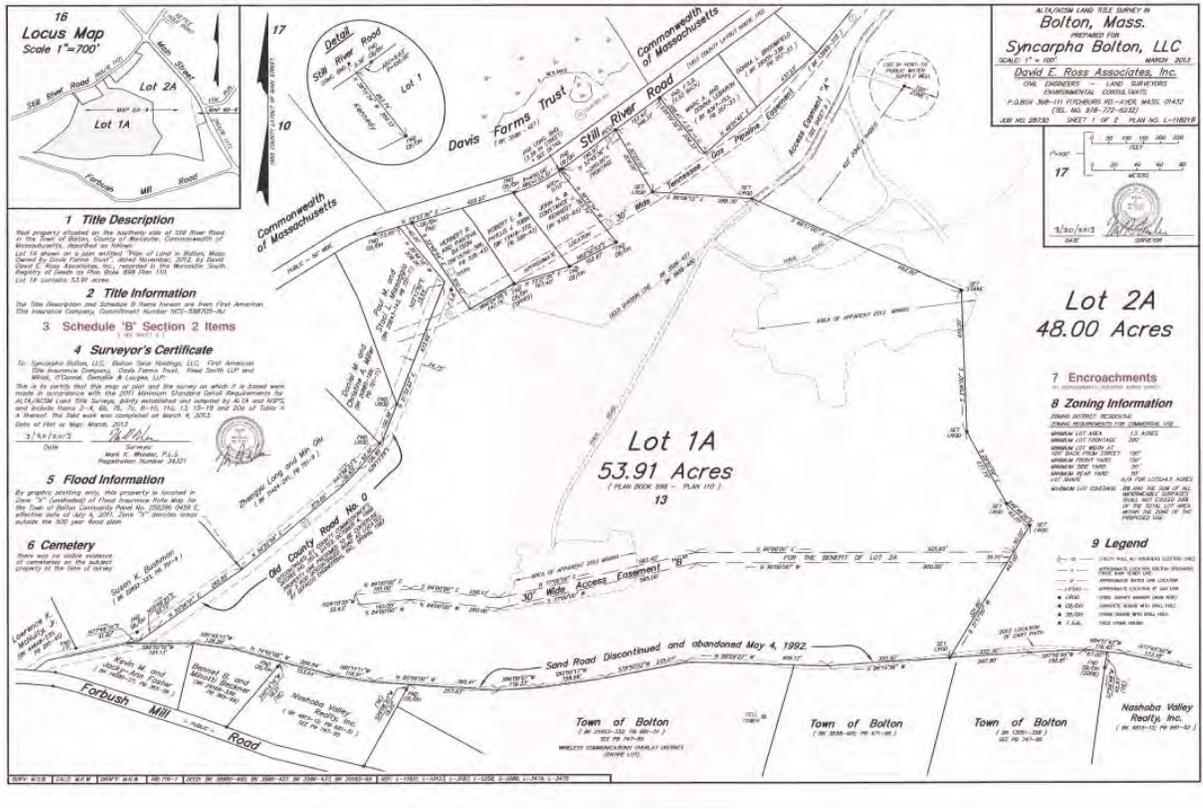
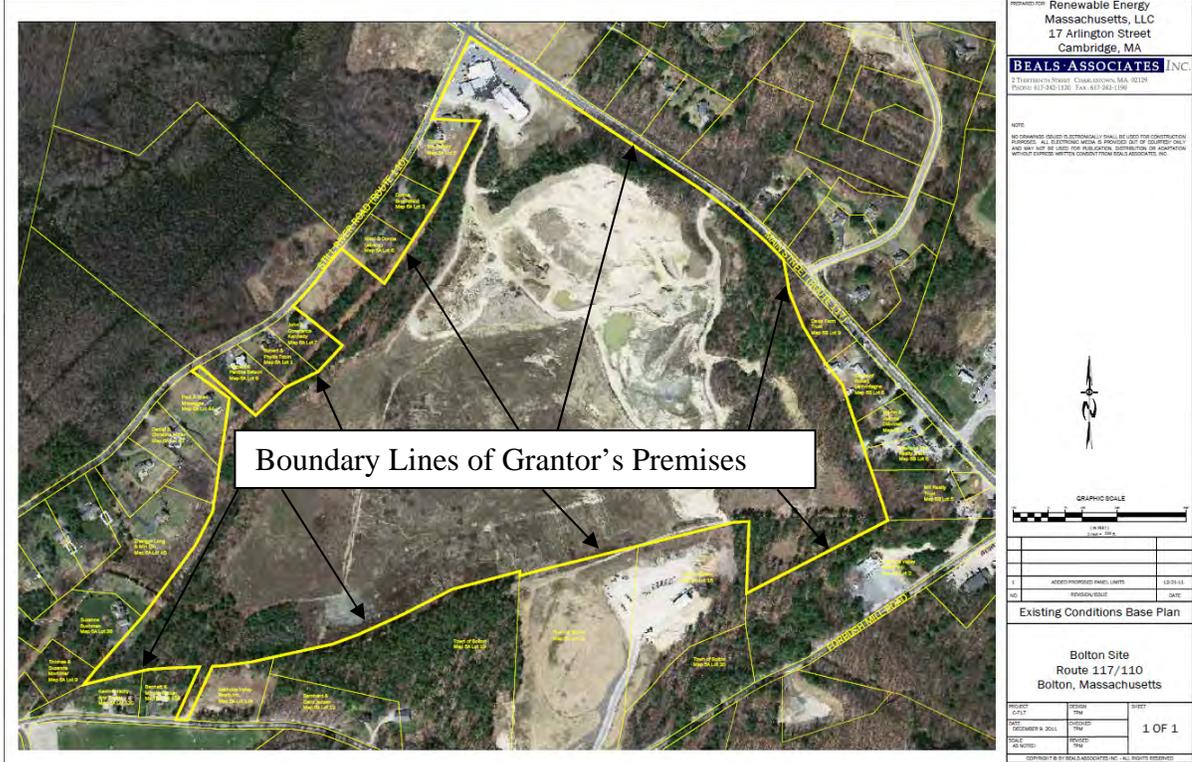


EXHIBIT B TO LEASE AGREEMENT

Map of the Owner's Entire Property



PREPARED FOR: Renewable Energy Massachusetts, LLC
17 Arlington Street
Cambridge, MA

BEALS ASSOCIATES INC.
2 Tremont Street, Cambridge, MA 02139
Phone: 617-552-1130 Fax: 617-552-1190

NOTE:
THIS DOCUMENT IS A PRELIMINARY PLAN. BEALS ASSOCIATES INC. IS NOT PROVIDING ANY WARRANTY, REPRESENTATION OR OPINION AS TO THE ACCURACY OF THE INFORMATION PROVIDED. ALL ELECTRONIC MEDIA IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. THIS DOCUMENT IS PROVIDED FOR INFORMATION ONLY AND SHOULD NOT BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT FROM BEALS ASSOCIATES INC.

GRAPHIC SCALE
1" = 100'

NO.	DESCRIPTION	DATE
1	APPROVED FOR PERMIT	12/20/11
2	REVISIONS	1/20/12

Existing Conditions Base Plan

Bolton Site
Route 117/110
Bolton, Massachusetts

PROJECT	DATE	SHEET
0117	11/11	1 OF 1
DESIGNED BY	CHECKED BY	
PREPARED BY	APPROVED BY	
DATE	SCALE	
11/11	1" = 100'	

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EXHIBIT C TO LEASE AGREEMENT

NON-DISTURBANCE, CONSENT AND RECOGNITION AGREEMENT

NON-DISTURBANCE, CONSENT AND RECOGNITION AGREEMENT dated as of _____, 2013 (the "Agreement"), among DAVIS FARMS TRUST, a Massachusetts Business Trust d/b/a Bolton Orchards (together with its successors and permitted assigns, the "Lessor"), and SYNCARPHA BOLTON, LLC, a Delaware limited liability company (together with its successors and permitted assigns, the "Lessee") and [NAME OF SYNCARPHA'S LENDER], national banking association, having an office at [●] (together with its successors and permitted assigns, the "Lender").

BACKGROUND

A. Lessee has entered into a Lease with Lessor dated _____, 2013 (the "Lease") whereby Lessee leased from Lessor a portion of the Owner's Entire Property (defined below) consisting of approximately fifty-four (54) acres of real property comprised of one parcel of land located at 125 Still River Road, Bolton, Massachusetts 01740, and more particularly described and depicted as Lot 1A on the map attached hereto as on **Exhibit A** annexed hereto and made a part hereof (the "Leased Premises"). The Property includes, without limitation, all air space, light, and any other similar effects attributable to such real property. The Property is a portion of a larger parcel of real property owned by Lessor and more particularly described and depicted as Lot 1A and Lot 2A on the map attached hereto as **Exhibit B** (the "Owner's Entire Property"). Unless otherwise defined herein, capitalized words used herein shall have the same meanings as provided in the Lease.

B. Lessee has entered into an Easement with Lessor dated _____, 2013 (the "Easement") providing a right of way over a portion of Owner's Entire Property as depicted on the map attached hereto as **Exhibit C** (the "Easement Premises").

C. Pursuant to that certain loan agreement dated on even date herewith, Lender has made a loan to Lessee in connection with Lessee's development, installation and operation of the Solar Power Facilities (the "Loan Agreement").

D. Pursuant to the provisions of the Lease, Lessee has required that the Lessor, Lessee and Lender enter into this Agreement and each of Lessor, Lessee and Lender desire to enter into this Agreement.

AGREEMENT

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants herein contained, and intending to be legally bound, hereby agree as follows:

1. NON-DISTURBANCE.

So long as Lessee complies with Lessee's obligations under this Agreement and is not in default under any of the terms, covenants or conditions of the Lease, Lessor will not disturb Lessee's use, possession and enjoyment of the Leased Premises or the Easement nor will the leasehold estate of Lessee be affected or Lessee's rights under the Lease or Easement be impaired by the exercise of any other remedy pursuant to the Lease except as expressly set forth in the Lease.

2. LESSOR'S OTHER AGREEMENTS.

- a. Lessor hereby agrees that it has no ownership interest in the Solar Power Facilities .
- b. The Lease is, and at all times shall be, a real property interest owned by Lessee and the Solar Power Facilities and all other personal property of Lessee shall be treated as the personal property of Lessee (including for retaining legal status as personal property as defined under Article 9 of the Uniform Commercial Code) and it is the intent of the Lessee and the Lessor that the Solar Power

Facilities shall remain the personal property of Lessee at all times and shall not attach to or be deemed a part of, or fixture to the Property or the Leased Premises or the Leased Premises, and the Lessor acknowledges and agrees that regardless of whether any of the Solar Power Facilities, or any part thereof, is or becomes a fixture, Lessee is the exclusive owner of the Solar Power Facilities, and the Lessor shall not have an ownership or security interest in the Solar Power Facilities or any equipment associated therewith.

- c. No liens of any kind on the Solar Power Facilities, any electrical power produced or sold in connection therewith or any SRECs related thereto (except the liens created by the Lessee in favor of the Lender under the Loan Agreement) shall be granted, placed or suffered to exist by Lessor.
- d. Lessee may freely assign its rights, title and interest in and to the Solar Power Facilities, the Lease and Easement to its Lender in order to secure loans made by such Lender to Lessee under the Loan Agreement relating to the installation and operation of the Solar Power Facilities.
- e. Lender will be provided by the Lessor with written notice (with reasonable particularity) of any default by the Lessee under the Lease and will be provided with a copy of any notice of any such breach, or of any default, of such agreement as and when such notice is forwarded to the Lessee, and shall have the rights to cure certain of such defaults in accordance with the terms of Section 21.3 of the Lease.
- f. The Lessor, or any Person acting in connection with Lessor, or any other Person claiming, by through or under Lessor, shall not interfere with any enforcement by Lessee or by the Lender of Lessee's rights in and to the Solar Power Facilities under the Lease or the Easement.
- g. The Lessor, or any Person acting in connection with Lessor, or any other Person claiming, by through or under Lessor, shall not interfere with any enforcement by the Lender of such Lender's rights in and to the any collateral security interests in which, or leasehold mortgages or assignments in which, have been granted to such Lender by Lessee under the Loan Agreement in connection with the Solar Power Facilities.
- h. The Lessor, or any Person acting in connection with Lessor, or any other Person claiming, by through or under Lessor, shall not interfere with the Lessee's or the Lender's right to remove at any time or from time to time the Solar Power Facilities, or any particular component thereof, from the Leased Premises in accordance with the Lease, the Easement, or any documents entered into by and between the Lessee and such Lender, as the case may be.

3. MISCELLANEOUS.

- a. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns. Nothing contained in this Agreement shall in any way affect or impair the lien created by the Security Instrument, except as specifically set forth herein.
- b. This Agreement may not be supplemented, amended or modified unless set forth in writing and signed by the parties hereto.
- c. All notices and communications under this Agreement shall be in writing and shall be given by either (a) hand delivery, (b) first class mail (postage prepaid), or (c) reliable overnight commercial courier (charges prepaid) to the addresses listed in this Agreement. Notice shall be deemed to have been given and received: (i) if by hand delivery, upon delivery; (ii) if by mail, three (3) calendar days after the date first deposited in the United States mail; and (iii) if by overnight courier, on the date scheduled for delivery. A party may change its address by giving written notice to the other party as specified herein.

- d. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Massachusetts.
- e. This Agreement may be executed in one or more counterparts by some or all of the parties hereto, each of which counterparts shall be an original and all of which taken together shall constitute a single agreement.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have duly executed and delivered this Non-Disturbance, Consent and Recognition Agreement as of the day and year first above written.

LENDER:

By: _____
Name:
Title:

LESSOR:

DAVIS FARMS TRUST

By: _____

LESSEE:

SYNCARPHA BOLTON, LLC

By: _____
Name:
Title:

[Add Notaries on Execution]

EXHIBIT A TO NON-DISTURBANCE, CONSENT AND RECOGNITION AGREEMENT

Property Description

Metes and Bounds Description of Lot 1A, Still River Road, Bolton, Massachusetts:

Real property situated on the southerly side of Still River Road in the Town of Bolton, Worcester County, Commonwealth of Massachusetts and shown as **Lot 1A** on a plan entitled, "Plan of Land in Bolton, Mass. Owned by Davis Farms Trust", dated November, 2012, being Plan L-11821A by David E. Ross Associates, Inc., recorded in Worcester South Registry of Deeds as **Plan Book 898, Plan 110**. Lot 1A is further bounded and described as follows:

- Beginning At an point on the southerly line of the 1915 County Highway layout of Still River Road at land nor or formerly of John A. and Constance J. Kennedy. Said point being located S 38° 15' 34" E two and 38/100 (2.38') feet from a concrete bound;
- Thence Along a curve to the left with a radius of four hundred fifty and 00/100 (450.00') feet an arc length of nine and 03/100 (9.03') feet by Still River Road to a concrete bound at the point of tangency;
- Thence N 53° 45' 36" E one hundred ninety and 97/100 (190.97') feet by Still River Road to an iron rod set at the corner of Lot 2A;
- Thence S 30° 35' 20" E two hundred nine and 00/100 (209.00') feet to an iron rod set ;
- Thence S 86° 06' 12" E two hundred eighty eight and 79/100 (288.79') feet to an iron rod set;
- Thence S 66° 17' 00" E six hundred sixty two and 00/100 (662.00') feet to an oak stake set;
- Thence S 02° 06' 00" E four hundred ten and 20/100 (410.20') feet to an iron rod set;
- Thence S 28° 52' 00" E two hundred thirty seven and 75/100 (237.75') feet to an iron rod set;
- Thence S 46° 46' 00" E ninety two and 05/100 (92.05') feet to an iron rod set;
- Thence S 31° 17' 00" W four hundred forty seven and 00/100 (447.00') feet to an iron rod set at land of the Town of Bolton. The previous seven courses run by Lot 2A, owned by Davis Farms Trust;
- Thence S 86° 19' 36" W three hundred fifty five and 50/ 100 (355.50') feet to a point;
- Thence N 88° 29' 22" W four hundred nine and 12/100 (409.12') feet to a point;
- Thence S 78° 50' 02" W two hundred thirty five and 07/100 (235.07') feet to a point;
- Thence S 82° 00' 17" W one hundred ninety eight and 68/100 (198.68') feet to a point;
- Thence S 86° 06' 07" W one hundred sixteen and 33/100 (116.33') feet to a point;
- Thence N 85° 59' 00" W two hundred fifty seven and 63/100 (257.63') feet to a point at land of Nashoba Valley Realty, Inc. Said point being located N 29° 06' 23" E eighteen and

22/100 (18.22') feet from a concrete bound found on the division line between lands of the Town of Bolton and Nashoba Valley Realty, Inc. The previous six courses run by land of the Town of Bolton and by the centerline of former "Sand Road", discontinued and abandoned by Town Meeting vote on May 4, 1992;

- Thence N 85° 59' 00" W one hundred two and 78/100 (102.78') feet to a point;
- Thence N 81° 11' 11" W one hundred nineteen and 91/100 (119.91') feet to a point;
- Thence N 74° 46' 08" W one hundred fifty three and 64/100 (153.64') feet to a point at land of Bennet B. and Minotti Beckner. Said point being located N 40° 14' 16" E eighteen and 21/100 (18.21') feet from a concrete bound found on the division line between lands of said Beckner and Nashoba Valley Realty, Inc. The previous three courses run by land of Nashoba Valley Realty, Inc. and by the centerline of former "Sand Road" referenced above;
- Thence N 74° 46' 08" W one hundred thirty six and 20/100 (136.20') feet by land of said Beckner and by the centerline of former "Sand Road" to a point;
- Thence N 81° 45' 15" W one hundred twenty eight and 28/100 (128.28') feet by land of said Beckner and by the centerline of former "Sand Road" to a point at land of Kevin M. and Jacky-Ann Foster;
- Thence S 89° 50' 16" W one hundred ninety one and 13/100 (191.13') feet by land of said Foster and the centerline of former "Sand Road" to a point on the centerline of discontinued "Old County Road No. 0" at land of Susan K. Bushman. "Old County Road 0" was discontinued by County Commissioner's Decree No. 3513, dated October 4, 1988;
- Thence N 77° 49' 35" E forty one and 82/100 (41.82') feet to a point;
- Thence N 55° 08' 25" E sixty five and 12/100 (65.12') feet to a point;
- Thence N 55° 06' 01" E two hundred ninety two and 85/100 (292.85') feet to a point at land of Zhengyu Long and Min Qiu. The previous three courses run by land of said Bushman and by the centerline of discontinued "Old County Road No. 0";
- Thence N 50° 22' 59" E three hundred seventy nine and 05/100 (379.05') feet to a point;
- Thence N 43° 56' 23" E seventy and 83/100 (70.83') feet to a point;
- Thence N 39° 15' 28" E ninety two and 40/100 (92.40') feet to an iron rod found at land of Daniel M. and Christine A. Miller. The previous three courses run by land of said Long and Qiu and by the centerline of discontinued "Old County Road No. 0";
- Thence N 39° 15' 28" E fourteen and 50/100 (14.50') feet by land of said Miller and by centerline of discontinued "Old County Road No. 0" to a point;
- Thence N 21° 32' 22" E one hundred nine and 38/100 (109.38') feet by land of said Miller and by the centerline of discontinued "Old County Road No. 0" to an iron rod found at land of Paul M. and Staci L. Missaggia;

Thence N 21° 32' 22" E three hundred sixty four and 30/100 (364.30') feet by land of said Missaggia and by the centerline of discontinued "Old County Road No. 0" to a point;

Thence N 39° 46' 18" W two hundred eight and 06/100 (208.06') feet by land of said Missaggia to a point on the southerly line of the 1915 County Layout of Still River Road;

Thence N 73° 33' 36" E forty and 00/100 (40.00') feet by Still River Road to a found stone bound at land of Herbert R. and Pantiva Batson;

Thence S 33' 48' 04" E three hundred and 47/100 (300.47') feet by land of said Batson to a point;

Thence N 60° 24' 08" E one hundred forty seven and 76/100 (147.76') feet by land of said Batson to the base of a tipped concrete bound at land of Robert E. and Phyllis J. Tobin;

Thence N 72° 21' 26" E one hundred sixty seven and 40/100 (167.40') feet by land of said Tobin to a concrete bound found at land of John A. and Constance J. Kennedy;

Thence N 62° 50' 53" E one hundred fifty two and 87/100 (152.87') feet by land of said Kennedy to a found concrete bound;

Thence N 38° 15' 34" W two hundred sixty three and 74/100 (263.74') feet by land of said Kennedy to the point of beginning.

Containing **Lot 1A containing 53.91 Acres.**

Subject to Lot 1A is subject to a **30' Wide Tennessee Gas Pipeline Easement** described in Worcester South Registry of Deeds Book 13895, Page 372.

Subject Lot 1A is to be made subject to a **30' Wide Access Easement "B"** shown on a plan entitled, "ALTA/ACSM Land Title Survey in Bolton, Mass., prepared for Syncarpha Bolton, LLC", being Plan No. L-11821B dated March, 2013. **Access Easement "B"** is for the benefit of Lot 2A to access mining area in the general southwest portion of Lot 1A;

Benefitting Lot 1A is to benefit from a **20' Wide Access Easement "A"** shown on the above mentioned plan. **Access Easement "A"** runs from Still River Road to Lot 1A over Lot 2A for the benefit of Lot 1A.

Lot 1A is a portion of land described in Worcester South Registry of Deeds book 3888, page 400 and book 3586, page 427 to Davis Farms Trust.

Depiction of Lot 1A, Still River Road, Bolton, Massachusetts:

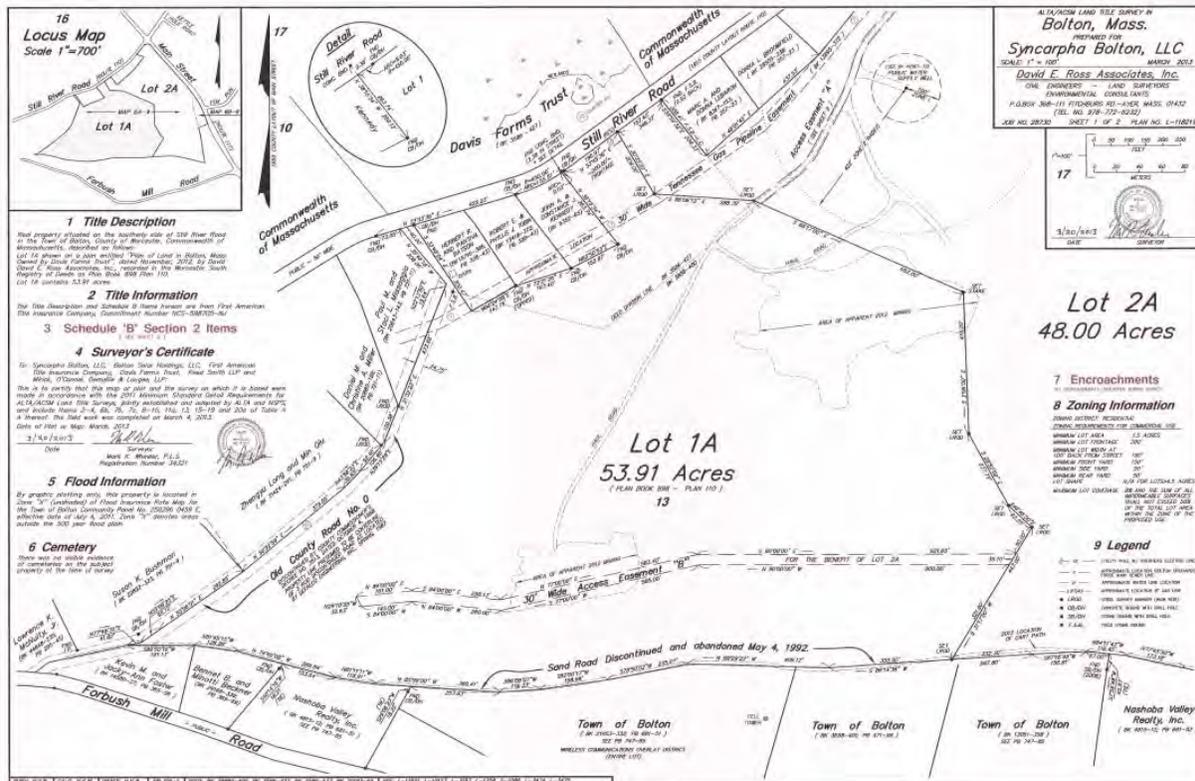
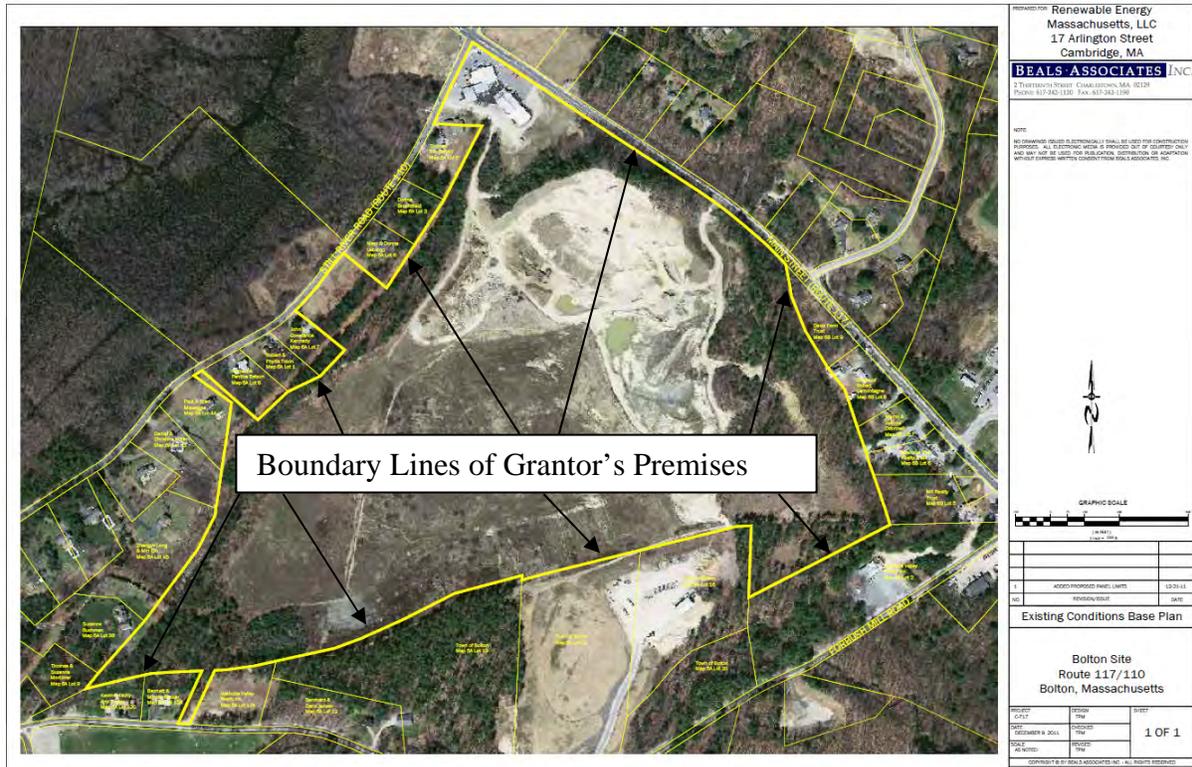


EXHIBIT B NON-DISTURBANCE, CONSENT AND RECOGNITION AGREEMENT

Map of the Owner's Entire Property



PREPARED FOR: Renewable Energy Massachusetts, LLC
17 Arlington Street
Cambridge, MA

BEALS ASSOCIATES INC.
17 TOWNSEND STREET • CAMBRIDGE, MA 02139
PHONE: 617-342-1100 FAX: 617-342-1106

NOTE:
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GRAPHIC SCALE
1" = 100'

NO.	REVISIONS	DATE
11	ADDED PROPOSED FENCE LIMITS	12-21-11
12	REVISIONS	DATE

Existing Conditions Base Plan

Bolton Site
Route 117/110
Bolton, Massachusetts

PROJECT	DATE	11-20-11
CLIENT	DATE	
DESIGNER	DATE	
CHECKER	DATE	
DRAWN	DATE	
SCALE	AS SHOWN	
DATE		

1 OF 1

COMPILED BY: BEALS ASSOCIATES INC. ALL RIGHTS RESERVED

EXHIBIT C NON-DISTURBANCE, CONSENT AND RECOGNITION AGREEMENT

Description and Depiction of Easement Area

Metes and Bounds Description of Easement Area

20' Wide Access Easement "A" is located over Lot 2A of **Plan book 898, Plan 110**, for the purpose of providing access to Lot 1A on said plan. Access Easement "A" is shown in its entirety on **ALTA Plan L-11821B** and further bounded and described as follows:

- Beginning At a point on the southerly sideline of Still River Road. Said point being located N 36° 23' 36" E seventy one and 66/100 (71.66') feet from the corner of Lot 2A and land of Thomas L. Broomfield;
- Thence N 39° 23' 36" E twenty and 49/100 (20.49') feet by Still River Road to a point;
- Thence S 38° 00' 00" E seventy one and 00/100 (71.00') feet to a point;
- Thence S 64° 00' 00" E sixty one and 44/100 (61.44') feet to a point of curvature;
- Thence Along a curve to the right with a radius of ninety and 00/100 (90.00') feet and arc Length of one hundred fifty five and 51/100 (155.51') feet to a point of tangency;
- Thence S 35° 00' 00" W seventy one and 05/100 (71.05') feet to a point;
- Thence S 41° 00' 00" W ninety six and 05/100 (96.05') feet to a point of curvature;
- Thence Along a curve to the left with a radius of one hundred eighty and 00/100 (180.00') feet an arc length of eighty and 31/100 (80.31') feet to a point of reverse curvature
- Thence Along a curve to the right with a radius of six hundred twenty and 00/100 (620.00') feet an arc length of one hundred thirty five and 95/100 (135.95') feet to a point of tangency;
- Thence S 28° 00' 00" W one hundred forty nine and 30/100 (149.30') feet to a point of curvature;
- Thence Along a curve to the right with a radius of two hundred twenty and 00/100 (220.00') feet an arc length of ninety five and 99/100 (95.99') feet to a point of tangency;
- Thence S 53° 00' 00" W one hundred thirty two and 72/100 (132.72') feet to a point at Lot 1A;
- Thence N 66° 17' 00" W twenty two and 93/100 (22.93') feet by Lot 1A to an Iron Rod set at an angle point between Lot 1A & Lot 2A;
- Thence N 53° 00' 00" E one hundred forty three and 93/100 (143.93') feet to a point of curvature'
- Thence Along a curve to the left with a radius of two hundred and 00/100 (200.00') feet an arc length of eighty seven and 27/100 (87.27') feet to a point of tangency;

- Thence N 28° 00' 00" E one hundred forty nine and 30/100 (149.30') feet to a point of curvature;
- Thence Along a curve to the left with a radius of six hundred and 00/100 (600.00') feet an arc length of one hundred thirty one and 57/100 (131.57') feet to a point of reverse curvature;
- Thence Along a curve to the right with a radius of two hundred and 00/100 (200.00') feet and arc length of eighty nine and 23/100 (89.23') feet to a point of tangency;
- Thence N 41° 00' 00" E ninety five and 00/100 (95.00') feet to a point;
- Thence N 35° 00' 00" E seventy and 00/100 (70.00') feet to a point of curvature;
- Thence Along a curve to the left with a radius of seventy and 00/100 (70.00') feet an arc length of one hundred twenty and 95/100 (120.95') feet to a point of tangency;
- Thence N 64° 00' 00" W sixty six and 06/100 (66.06') feet to a point;
- Thence N 38° 00' 00" W seventy one and 14/100 (71.14') to the point of beginning.

Depiction of Easement Area

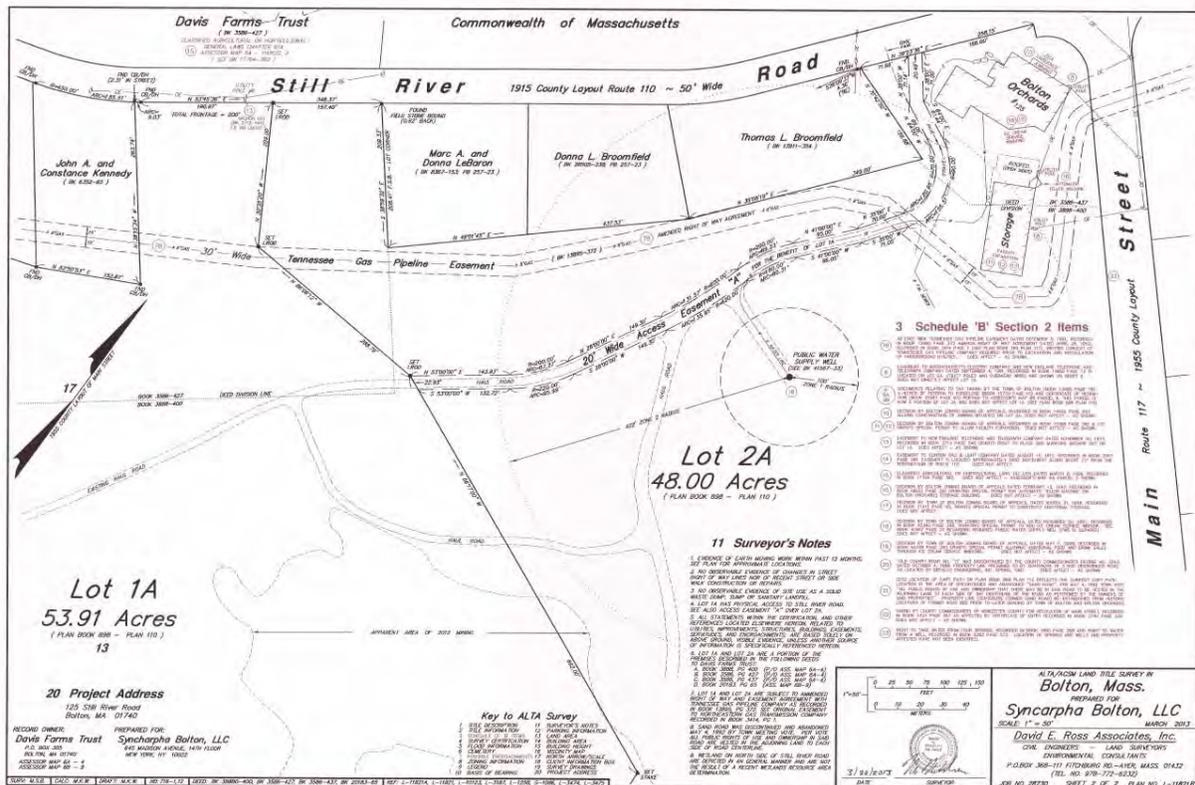


EXHIBIT D TO LEASE AGREEMENT

Memorandum of Lease

This Memorandum Of Lease (this "**Memorandum**") is made and entered into as of _____ by and between DAVIS FARMS TRUST, a Massachusetts Business Trust (the "**Lessor**") and SYNCARPHA BOLTON, LLC, a Delaware limited liability company (together with its successors and assigns, "**Lessee**") with reference to the following facts:

RECITALS

Lessor and Lessee are the Lessor and Lessee, respectively, under that certain Lease dated as of July ___, 2013 (the "**Lease**"), relating to a portion of the real property consisting of approximately fifty-four (54) acres of real property comprised of one parcel of land located at 125 Still River Road, Bolton, Massachusetts 01740, as more particularly described in Exhibit "A" attached hereto (the "**Property**").

Pursuant to Article 25 of the Lease, Lessor has granted to Lessee a right of first refusal to purchase (the "**Right of First Refusal**"), the Property.

Lessor and Lessee desire to have this Memorandum recorded in the Official Records of Worcester County, Massachusetts, in order to put interested parties on notice of the Lease and the Right of First Refusal.

Now, Therefore, the parties hereto hereby agree as follows:

Lease of the Property. Lessor hereby leases the Property to Lessee, and Lessee hereby leases the Property from Lessor for a term of twenty-five (25) years (subject to extension as set forth in the Lease) commencing on _____, the Commencement Date as defined in the Lease, and terminating twenty-five years thereafter subject to extension as set forth in the Lease) unless renewed as permitted therein, all subject to and on terms and conditions more fully set forth in the Lease. The Lease is incorporated herein by this reference.

Right of First Refusal. Lessor has granted, and hereby grants, to Lessee the Right of First Refusal described above during the time, for the price, and on the terms and conditions contained in the Lease, the terms and conditions of which are incorporated herein by this reference in their entirety. The Right of First Refusal must be exercised on or before the date specified in the Lease.

Information. Any party who is interested in acquiring an interest in the Property should contact the Lessor and the Lessee as follows:

if to Lessor:

Davis Farms Trust
c/o Bolton Orchards
125 Still River Road, Bolton, Massachusetts 01740

If to the Lessee:

MM Solar Holdings II, LLC
1245 Pearl Street
Suite 205
Boulder, Colorado 80302
Attention: Amory Host, President

With a copy to:

MS Solar Holdings, Inc.

2000 Westchester Avenue
Purchase, NY 10577

IN WITNESS WHEREOF, Lessee and Lessor have executed this Memorandum the day and date first above:

DAVIS FARMS TRUST

By: _____

Name

Title

Date
Signed _____, 2013

SYNCARPHA BOLTON, LLC

By: _____

Name:

Title:

Date
Signed _____, 2013

ADD NOTARY ACKNOWLEDGEMENTS

EXHIBIT A TO MEMORANDUM OF LEASE

Property Description

Metes and Bounds Description of Lot 1A, Still River Road, Bolton, Massachusetts:

Real property situated on the southerly side of Still River Road in the Town of Bolton, Worcester County, Commonwealth of Massachusetts and shown as **Lot 1A** on a plan entitled, "Plan of Land in Bolton, Mass. Owned by Davis Farms Trust", dated November, 2012, being Plan L-11821A by David E. Ross Associates, Inc., recorded in Worcester South Registry of Deeds as **Plan Book 898, Plan 110**. Lot 1A is further bounded and described as follows:

- Beginning At an point on the southerly line of the 1915 County Highway layout of Still River Road at land nor or formerly of John A. and Constance J. Kennedy. Said point being located S 38° 15' 34" E two and 38/100 (2.38') feet from a concrete bound;
- Thence Along a curve to the left with a radius of four hundred fifty and 00/100 (450.00') feet an arc length of nine and 03/100 (9.03') feet by Still River Road to a concrete bound at the point of tangency;
- Thence N 53° 45' 36" E one hundred ninety and 97/100 (190.97') feet by Still River Road to an iron rod set at the corner of Lot 2A;
- Thence S 30° 35' 20" E two hundred nine and 00/100 (209.00') feet to an iron rod set ;
- Thence S 86° 06' 12" E two hundred eighty eight and 79/100 (288.79') feet to an iron rod set;
- Thence S 66° 17' 00" E six hundred sixty two and 00/100 (662.00') feet to an oak stake set;
- Thence S 02° 06' 00" E four hundred ten and 20/100 (410.20') feet to an iron rod set;
- Thence S 28° 52' 00" E two hundred thirty seven and 75/100 (237.75') feet to an iron rod set;
- Thence S 46° 46' 00" E ninety two and 05/100 (92.05') feet to an iron rod set;
- Thence S 31° 17' 00" W four hundred forty seven and 00/100 (447.00') feet to an iron rod set at land of the Town of Bolton. The previous seven courses run by Lot 2A, owned by Davis Farms Trust;
- Thence S 86° 19' 36" W three hundred fifty five and 50/ 100 (355.50') feet to a point;
- Thence N 88° 29' 22" W four hundred nine and 12/100 (409.12') feet to a point;
- Thence S 78° 50' 02" W two hundred thirty five and 07/100 (235.07') feet to a point;
- Thence S 82° 00' 17" W one hundred ninety eight and 68/100 (198.68') feet to a point;
- Thence S 86° 06' 07" W one hundred sixteen and 33/100 (116.33') feet to a point;
- Thence N 85° 59' 00" W two hundred fifty seven and 63/100 (257.63') feet to a point at land of Nashoba Valley Realty, Inc. Said point being located N 29° 06' 23" E eighteen and

22/100 (18.22') feet from a concrete bound found on the division line between lands of the Town of Bolton and Nashoba Valley Realty, Inc. The previous six courses run by land of the Town of Bolton and by the centerline of former "Sand Road", discontinued and abandoned by Town Meeting vote on May 4, 1992;

- Thence N 85° 59' 00" W one hundred two and 78/100 (102.78') feet to a point;
- Thence N 81° 11' 11" W one hundred nineteen and 91/100 (119.91') feet to a point;
- Thence N 74° 46' 08" W one hundred fifty three and 64/100 (153.64') feet to a point at land of Bennet B. and Minotti Beckner. Said point being located N 40° 14' 16" E eighteen and 21/100 (18.21') feet from a concrete bound found on the division line between lands of said Beckner and Nashoba Valley Realty, Inc. The previous three courses run by land of Nashoba Valley Realty, Inc. and by the centerline of former "Sand Road" referenced above;
- Thence N 74° 46' 08" W one hundred thirty six and 20/100 (136.20') feet by land of said Beckner and by the centerline of former "Sand Road" to a point;
- Thence N 81° 45' 15" W one hundred twenty eight and 28/100 (128.28') feet by land of said Beckner and by the centerline of former "Sand Road" to a point at land of Kevin M. and Jacky-Ann Foster;
- Thence S 89° 50' 16" W one hundred ninety one and 13/100 (191.13') feet by land of said Foster and the centerline of former "Sand Road" to a point on the centerline of discontinued "Old County Road No. 0" at land of Susan K. Bushman. "Old County Road 0" was discontinued by County Commissioner's Decree No. 3513, dated October 4, 1988;
- Thence N 77° 49' 35" E forty one and 82/100 (41.82') feet to a point;
- Thence N 55° 08' 25" E sixty five and 12/100 (65.12') feet to a point;
- Thence N 55° 06' 01" E two hundred ninety two and 85/100 (292.85') feet to a point at land of Zhengyu Long and Min Qiu. The previous three courses run by land of said Bushman and by the centerline of discontinued "Old County Road No. 0";
- Thence N 50° 22' 59" E three hundred seventy nine and 05/100 (379.05') feet to a point;
- Thence N 43° 56' 23" E seventy and 83/100 (70.83') feet to a point;
- Thence N 39° 15' 28" E ninety two and 40/100 (92.40') feet to an iron rod found at land of Daniel M. and Christine A. Miller. The previous three courses run by land of said Long and Qiu and by the centerline of discontinued "Old County Road No. 0";
- Thence N 39° 15' 28" E fourteen and 50/100 (14.50') feet by land of said Miller and by centerline of discontinued "Old County Road No. 0" to a point;
- Thence N 21° 32' 22" E one hundred nine and 38/100 (109.38') feet by land of said Miller and by the centerline of discontinued "Old County Road No. 0" to an iron rod found at land of Paul M. and Staci L. Missaggia;

Thence N 21° 32' 22" E three hundred sixty four and 30/100 (364.30') feet by land of said Missaggia and by the centerline of discontinued "Old County Road No. 0" to a point;

Thence N 39° 46' 18" W two hundred eight and 06/100 (208.06') feet by land of said Missaggia to a point on the southerly line of the 1915 County Layout of Still River Road;

Thence N 73° 33' 36" E forty and 00/100 (40.00') feet by Still River Road to a found stone bound at land of Herbert R. and Pantiva Batson;

Thence S 33' 48' 04" E three hundred and 47/100 (300.47') feet by land of said Batson to a point;

Thence N 60° 24' 08" E one hundred forty seven and 76/100 (147.76') feet by land of said Batson to the base of a tipped concrete bound at land of Robert E. and Phyllis J. Tobin;

Thence N 72° 21' 26" E one hundred sixty seven and 40/100 (167.40') feet by land of said Tobin to a concrete bound found at land of John A. and Constance J. Kennedy;

Thence N 62° 50' 53" E one hundred fifty two and 87/100 (152.87') feet by land of said Kennedy to a found concrete bound;

Thence N 38° 15' 34" W two hundred sixty three and 74/100 (263.74') feet by land of said Kennedy to the point of beginning.

Containing **Lot 1A containing 53.91 Acres.**

Subject to Lot 1A is subject to a **30' Wide Tennessee Gas Pipeline Easement** described in Worcester South Registry of Deeds Book 13895, Page 372.

Subject Lot 1A is to be made subject to a **30' Wide Access Easement "B"** shown on a plan entitled, "ALTA/ACSM Land Title Survey in Bolton, Mass., prepared for Syncarpha Bolton, LLC", being Plan No. L-11821B dated March, 2013. **Access Easement "B"** is for the benefit of Lot 2A to access mining area in the general southwest portion of Lot 1A;

Benefitting Lot 1A is to benefit from a **20' Wide Access Easement "A"** shown on the above mentioned plan. **Access Easement "A"** runs from Still River Road to Lot 1A over Lot 2A for the benefit of Lot 1A.

Lot 1A is a portion of land described in Worcester South Registry of Deeds book 3888, page 400 and book 3586, page 427 to Davis Farms Trust.

Depiction of Lot 1A, Still River Road, Bolton, Massachusetts:

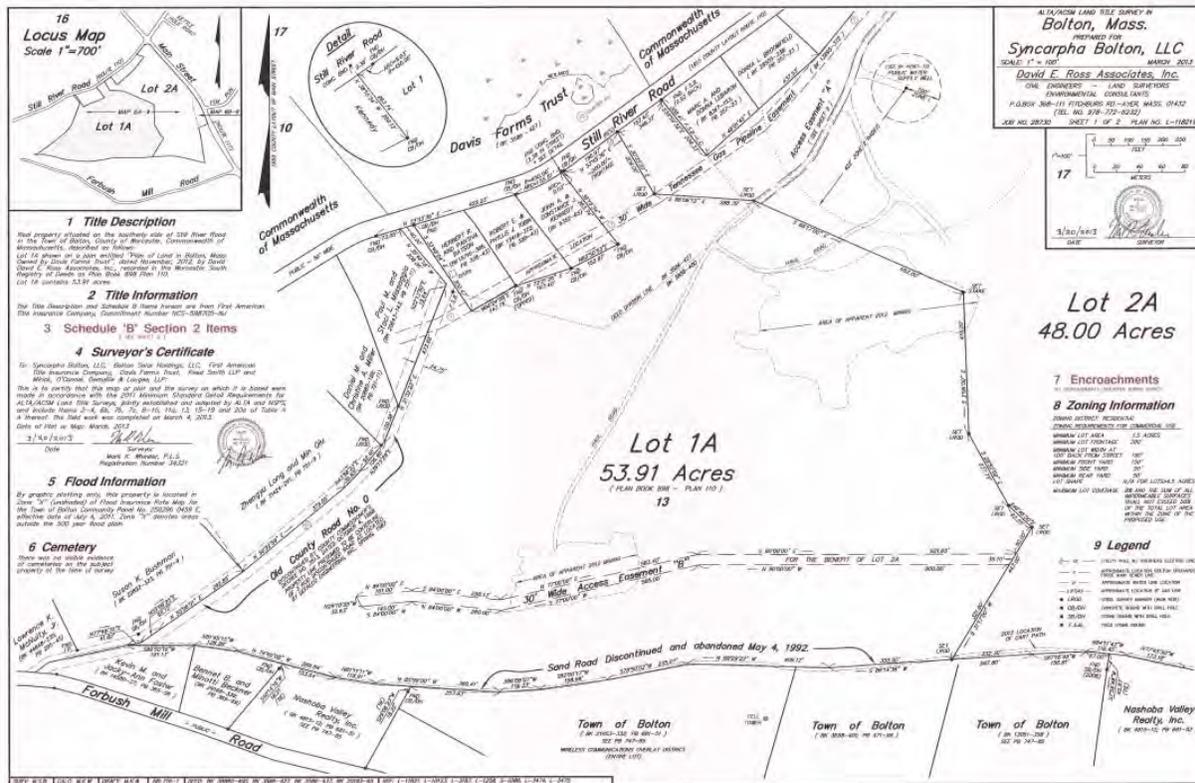


EXHIBIT E TO LEASE AGREEMENT

Statement of Amended Lessor Representations and Warranties

EXHIBIT F TO LEASE AGREEMENT

Easements

1. MASTER EASEMENT AGREEMENT made, dated and effective as of the ____ day of July, 2013 by and between DAVIS FARMS TRUST, a Massachusetts Business Trust d/b/a Bolton Orchards (together with its successors and permitted assigns, the “Grantor”), and SYNCARPHA BOLTON, LLC, a Delaware limited liability company (together with its successors and permitted assigns, “Grantee”) (form attached).

2. NONEXCLUSIVE ACCESS EASEMENT AGREEMENT made, dated and effective as of the ____ day of July, 2013 by and between DAVIS FARMS TRUST, a Massachusetts Business Trust d/b/a Bolton Orchards (together with its successors and permitted assigns, the “Grantor”), and SYNCARPHA BOLTON, LLC, a Delaware limited liability company (together with its successors and permitted assigns, “Grantee”). (form attached).

3. UTILITY ACCESS EASEMENT AGREEMENT made, dated and effective as of the ____ day of July, 2013 by and between DAVIS FARMS TRUST, a Massachusetts Business Trust d/b/a Bolton Orchards (together with its successors and permitted assigns, the “Grantor”), and SYNCARPHA BOLTON, LLC, a Delaware limited liability company (together with its successors and permitted assigns, “Grantee”) (form attached).

4. UTILITY LINE EASEMENT AGREEMENT made, dated and effective as of the ____ day of July, 2013 by and between DAVIS FARMS TRUST, a Massachusetts Business Trust d/b/a Bolton Orchards (together with its successors and permitted assigns, the “Grantor”), and SYNCARPHA BOLTON, LLC, a Delaware limited liability company (together with its successors and permitted assigns, “Grantee”) (form attached).

Easements Provided Separately

BEALS · ASSOCIATES INC.

2 THIRTEENTH STREET CHARLESTOWN, MA 02129
PHONE: 617-242-1120 FAX: 617-242-1190

December 7, 2012

Vial Email Only

Bolton Planning Board

Attn: Jennifer Burney, Town Planner
663 Main Street
Bolton MA, 01740

RE: 125 Still River Road – Solar Energy Facility - Revised ANR & Site Plan

Dear Jennifer:

On behalf of co-applicants Syncarpha Bolton LLC ("Syncarpha") and Renewable Energy Massachusetts LLC ("REM") in connection with the 4.95MW solar energy facility (the "Project") under development at 125 Still River Road, Bolton, MA (the "Site"), we are submitting the attached updated site plan (the "Revised Site Plan") for the Project showing the proposed relocation of the solar facility in connection with the proposed, revised ANR plan (the "Revised ANR") for the Site to be presented to the Board on Wednesday Dec 12th.

Revised Site Plan and the Special Permit.

We wish to underscore that the Revised Plan is consistent with the conditions of Project's special permit issued by the Board on April 25, 2012. The Revised Site Plan does not represent a material modification of the original site plan or the Special Permit because of the following consistencies:

- (i) The Revised Site Plan is for a solar energy facility with an AC-rated capacity of 4.95 megawatts ("MW"), which is the exact same rated capacity as called for in the original plan;
- (ii) The Revised Site Plan's perimeter fence line encircles an area of 25.6 acres, which is substantially similar to the original plan's perimeter area of 24.8 acres;
- (iii) The Revised Site Plan's number of inverter sheds remains the same as the original plan's inverter shed total of four (4);
- (iv) The Revised Plan's total number of transfer stations remains the same as the original plan's total of two (2);
- (v) The Revised Plan's total number of interconnect lines remains the same as the original plan's total of two (2);

- (vi) The location of the electric lines delivering power to the National Grid circuits on Route 110 and Route 117 remain in the same general locations on the Revised Site Plan as in the original plan.

The entire rationale for submitting the Revised Site Plan is to achieve optimal solar location of the Project by avoiding the shading impact of trees along the southerly ridge line and the southwesterly portion of the Site. Syncarpha's solar engineers have studied the shading characteristics of the Site with greater precision since the original plan eight months ago. Their engineering conclusions have driven the process to come before the Board with the Revised Site Plan. Finally, we note that maximizing solar energy production is in the mutual interest of the Project and the Town, insofar as the tax PILOT agreement entered into between the Town and Syncarpha earlier this year is based on a percentage of electricity generated revenues. We have confirmed that the Revised Site Plan meets all of the requirements of the Special Permit and look forward to reviewing the plan with the Board on Wednesday December 12th.

Revised ANR Plan.

While the Revised ANR is a plan that has been created for the Davis Family, the owners of the Site, by Ross Associates (who will present the Revised ANR to the Board and confirm that it meets all of the Bolton zoning requirements for an ANR), we wanted to confirm a few statements regarding the Revised ANR that may be of concern to the Board:

- A. The Revised ANR was designed to allocate essentially the same acreage of land to the Solar Parcel (parcel 1A) and the Remainder Parcel (parcel 2A) as were allocated between them in the original ANR approved by the Board in April 2012.
- B. While the Revised ANR does split up the frontage area along Route 110 between the two parcels, whereas the original ANR allocated all of that frontage to the Solar Parcel, this change has no impact upon (i) the Project, (ii) the location of facility equipment and electric lines, nor (iii) the Project's access road, which is now and shall remain by way of the existing haul road coming from the Bolton Orchards storefront area north of the Site.
- C. As we understand from the Davis Family, the entire rationale for the split of the Route 110 frontage in the Revised ANR is to reserve development flexibility and land use options for the Davis Family that it may pursue in the future. At this time, the Davis Family has confirmed to the Project that they do not have any current development plans for the Remainder Parcel. Nonetheless, in the interest of prudent long-term planning, the Davis Family has identified a potential need in its future development plans to have access to two (2) means of egress for the Remainder Parcel (one by way of Route 110 frontage and one by way the existing haul road). Such dual means of egress may be required by local emergency responders or the Board itself.

D. Finally, it is important to note that any future development plan will necessarily involve presentations by the Davis Family and its future chosen development partners before the Board and the Select Board to approve any required Special Permit and Site Plan process at that time. In the course of that future Town approval process, the Davis Family would provide abutters with appropriate notice and detailed plans outlining such future development proposal. To provide an estimate of future development decisions today would be not only speculative and premature in nature, but also unfair to the Davis Family, insofar as it is not presently prepared to evaluate or share publicly with the Board or abutters what its current estimate of its preferred future use of the Remainder Parcel may be.

We look forward to meeting with the Board at 7pm on Wednesday December 12th to discuss the Revised ANR and confirm that Revised Site Plan meets all of the conditions of the Special Permit. Please confirm the location of the meeting. In the meantime, I may be reached by phone at 617-242-1120 in case of any questions about the attached Revised Site Plan.

Sincerely,
Beals Associates, Inc.



Todd P. Morey, P.E.
Senior Professional Engineer

Enc.
C: Cliff Chapman & Sean Rheuben, Syncarpha Bolton LLC
Brian Kopperl & Bob Knowles, Renewable Energy Massachusetts LLC
Mark Wheeler, Ross Associates
Joel O'Toole, Bolton Orchards
John Mirick, Esq.



March 4, 2014

Mr. Michael Judge
Massachusetts DOER
100 Cambridge St.
Boston, MA 02114
By Email

RE: Solar Project Eligibility Under 225 CMR Section 14.05 (9)(a) For a Host Site Subdivision Recorded After January 1, 2010

Dear Mr. Judge:

We appreciate the timely process that you and the DOER are pursuing in advancing the SREC 2 program. Based on the original draft SREC 2 regulations at 225 CMR 14.00 *et seq.* filed on January 3, 2014, which provided for SREC2 eligibility for any parcels created by subdivision dated prior to January 1, 2014, we proceeded to initiate discussions and site planning with Renewable Energy Massachusetts LLC (“REM”) regarding the development of a +/- 4 MW DC SREC 2 solar energy project (the “Bolton 2 Project”) to be located on a portion of the 48 acre remainder parcel known as “Lot 2A” located on the land owned by Davis Farms Trust at 125 Still River Road, Bolton, MA 01974 (the “Bolton Site”), as such lot was created pursuant to an ANR subdivision (the “ANR”) approved by the Bolton Planning Board and recorded with the Worcester County Registry of Deeds, as shown in the attached Appendix.

Pursuant to the revised draft SREC2 regulations filed by the DOER on February 11, 2014, the relevant provision of 225 CMR Section 14.05(9)(a), entitled “Special Provisions for a Solar Carve-Out II Renewable Generation Unit” now provides as follows:

For any parcel of land for which a Solar Carve-Out II Generation Unit has submitted a Statement of Qualification Application, if it’s current boundaries are the result of a subdivision recorded after January 1, 2010 (changed in latest draft regulations from January 1, 2014), the Owner or Operator shall demonstrate to the Department that the subdivision was not for the purpose of obtaining eligibility as a Solar Carve-Out II Renewable Generation Unit. If the Owner or Operator fails to make such a showing to the Department, the six MW limit shall apply to the metes and bounds of the parcel as recorded prior to the subdivision.

For the reasons set out below, we write this letter to request the DOER’s approval of the SREC2 eligibility of Lot 2A at the Bolton Site so that the Bolton 2 Project may go forward at this time.

I. Background.

The Davis Family, now through the Davis Farms Trust, has owned apple and fruit orchards in Bolton, MA for more than 75 years, and continues to harvest fruit on close to 100 acres of nearby land for sale at

its long-standing food and community storefront located on the Bolton Site at the intersection of Route 117 and Still River Road. During the 1950s, the Davis Family acquired the entire 105 acres of the Bolton Site and, for more than 50 years, has mined gravel, loam, sand and other minerals to supply road and construction sites of Central Massachusetts with raw materials.

Beginning in August 2011, the Davis Family partnered with REM and its development partner Syncarpha Solar, LLC to develop an SREC1-eligible 5.95 MW DC solar energy project (the “Bolton 1 Project”) on approximately 26 acres located at the Bolton Site. To facilitate the development of the Bolton 1 Project during 2013, the Davis Family filed the ANR on December 12, 2012 and subdivided the previous single parcel into two lots, a 53.91 acre Lot 1A to host the Bolton 1 Project and a 48 acre Lot 2A to serve as the remainder parcel. The subdivision of the 100 acre gravel area was performed by David E. Ross Associates, Inc. and approved by the Bolton Planning Board, as shown in the Appendix. The Bolton 1 Project was constructed during the summer of 2013 and was celebrated in a public dedication ceremony on November 14, 2013. DOER Commissioner Mark Sylvia was among the speakers that inaugurated the Bolton 1 Project. The Bolton 1 Project was authorized by National Grid to tie in to the grid during late December 2013.

We do believe it is worth noting that there was risk involved in the Bolton 1 Project. It is important for us to underscore that while in hindsight the location of a solar project on Lot 1A looks like a sure thing, it was not until the second half of 2013 that a project actually got off the ground and got constructed. Only then was the lease exercised, and only then was solar energy a reality. It seemed entirely possible to us right up until June 2013 that we would have zero solar at the Bolton Site.

II. The Use of the Remainder Parcel – Lot 2A

The purpose of this letter is to demonstrate to the DOER that the original ANR subdivision approved by the Bolton Planning Board was designed to do several things to achieve the commercial land use purposes of the Davis Family:

1. As noted previously, the Bolton Site has been host to two historic activities: (i) the Bolton Orchards food and storefront (for more than 70 years) and (ii) the active gravel mining pit for close to 50 years. The basic objective of the ANR was to facilitate the continuation of the Bolton Orchards store and the gravel pit while allowing a separate entity, Syncarpha Bolton LLC, to fence in, operate and maintain the Bolton 1 Project.
2. By carving out the Remainder Parcel - Lot 2A, the Davis Family was able to secure continuing sand/gravel extraction business on those 48 acres, which has continued to operate under the direction of the Davis Farms’ long-time gravel contractor, Clear Summit, since the ANR was filed.
3. The ANR subdivision also allowed for the creation of two parcels of relatively equal size that would be taxed separately by the Town of Bolton according to the different land uses. This allowed the original solar parcel (Lot 1A) and the Bolton 1 Project solar facility to be independently taxed according to both the applicable real estate tax classification and, in the case of personal property taxes, a PILOT tax agreement related to the solar energy facility that was approved at Bolton’s annual town meeting in 2012. As a result of the ANR, the

Davis Family is only taxed (at a lower rate than Lot 1A) on its Remainder Parcel Lot 2A, while the owner of the Bolton 1 Project is taxed appropriately for its use of Lot 1A.

4. The solar energy facility comprising the Bolton 1 Project, demarcated today by a security fence, occupies just 26 acres of the Lot 1A total of 53.91 acres. It made no sense whatsoever when planning the location of the facility to have the solar facility occupy and use up all 105 acres of the Bolton Site. As a practical matter, the Bolton Orchards storefront could not have been included in the Lot 1A, so no matter what a subdivision was required. In addition, the Davis Family consistently expressed to its permitting advisors and the Bolton Planning Board that it would consider future options of leasing or selling Lot 2A to a potential commercial or light industrial business. Such land use options could only be facilitated by subdividing the Bolton Site into separate Lot 1A and Lot 2A.

III. Request for Approval of Solar Energy on Lot 2A

Following the successful completion of the Bolton 1 Project this past December, the Davis Family, as part of family estate planning, began to seriously evaluate its future land use options on the Remainder Parcel - Lot 2A. To summarize the conclusion, the Davis Family asked REM to assist in designing a second, smaller solar energy project on Lot 2A that would also permit a portion of the Lot 2A to remain undeveloped for potential gravel extraction or other land uses. Until we had seen the Bolton 1 Project actually get constructed, the idea of solar lease revenues actually being received seemed to us a potentially risky outcome. Now we have a different view and hope that the DOER will approve Lot 2A for solar development.

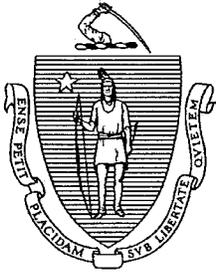
A 2nd solar lease on the Bolton Site's Lot 2A would substantially secure the financial condition of the future apple/fruit harvesting on the nearby orchards while allowing the Bolton Orchards storefront to continue in operation for many decades to come. We feel it is clear that the original reason for this subdivision was specifically not for the purpose of gaining eligibility as a Solar Carve-Out II Renewable Generation Unit, but rather to preserve our storefront and gravel operations on a separate parcel. It is for the reasons stated above that we respectfully request that DOER allow the Bolton 2 Project to move forward by qualifying Lot 2A to host solar energy under the SREC2 program. Thank you for your consideration, we look forward to your reply. If I may answer any questions about this letter and our land, please do not hesitate to call me at (978) 857-6758, or by email at Boltonorchards@verizon.net.

Sincerely,



Joel O'Toole
Treasurer, Davis Farms Trust

Cc: Bob Davis - Bolton Orchards
Brian Kopperl – REM LLC
Bob Knowles – REM LLC



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF
ENERGY AND ENVIRONMENTAL AFFAIRS
**DEPARTMENT OF ENERGY
RESOURCES**

100 CAMBRIDGE ST., SUITE 1020
BOSTON, MA 02114
Telephone: 617-626-7300
Facsimile: 617-727-0030

Deval L. Patrick
Governor

Maeve Valley Bartlett
Secretary

Meg Lusardi
Acting Commissioner

July 14, 2014

Joel O'Toole
Treasurer
Davis Farms Trust
Wilder Road
Bolton, MA 01974

Dear Mr. O'Toole:

The purpose of this letter is to respond to the request of Davis Farms Trust ("Trust") dated April 29, 2014, as later supplemented on May 7, 2014 ("Request"). Included within the Request are the following documents:

- Subdivision Appeal Letter
- Bolton Planning Board Site Plan Modification and ANR Approval Letters
- Beals Associates Letter to Bolton Planning Board Confirming Special Permit Compliance of Revised ANR
- Revised Bolton Site Plan and ANR

The Request and accompanying documentation concerns a parcel of land created by a subdivision that occurred after January 1, 2010, and whether this subdivision impacts the viability of the parcel to be a site of a Solar Carve-Out II Renewable Generation Unit under 225 CMR 14.00. The parcel in question has been identified by the Trust as "Lot 2A," located at 125 Still River Road, Bolton, MA 01974 ("Site").

The Request explains that the Site is owned by the Trust. Further, the Request maintains that subdivision was performed in December 2012 to facilitate the development of a 5.95 MW DC Generation Unit that is now qualified as a Solar Carve-Out Renewable Generation Unit and is located on the now neighboring parcel to the Site, Lot 1A. In addition, the Request goes on to explain that the subdivision was performed not for the purpose of obtaining eligibility as a Solar Carve-Out II Generation Unit, but rather "...to facilitate the continuation of the Bolton Orchards store and gravel pit while allowing a separate entity, Syncarpha Bolton LLC, to fence in, operate, and maintain the Bolton 1 Project."

The Department of Energy Resources' ("Department") regulations set forth at 225 CMR 14.05(9)(a), explain that:

For any parcel of land for which a Solar Carve-Out II Renewable Generation Unit has submitted a Statement of Qualification Application, if its current boundaries are the result of a subdivision recorded after January 1, 2010, the Owner or Operator shall demonstrate to the Department that the subdivision was not for the purpose of obtaining eligibility as a Solar Carve-Out II Renewable Generation Unit. If the Owner or Operator fails to make such a showing to the Department, the six MW limit shall apply to the metes and bounds of the parcel as recorded prior to the subdivision. Any solar photovoltaic Generation Units that would result in excess of six MW of capacity installed on the same parcel of land and meeting all other requirements under 225 CMR 14.00 may qualify only for RPS Class I Renewable Generation Attributes.

Acting in accordance with 225 CMR 14.00, the Department has reached the conclusion that the subdivision that created that Site likely does not appear to have been performed for the purpose of obtaining eligibility as a Solar Carve-Out II Renewable Generation Unit. This conclusion is based upon the following:

- The subdivision appears to have been performed for the reasons stated in the Trust's Request and was performed well in advance of any formal public announcements that the Solar Carve-Out II Program would be established. In particular, the Trust explains that it did not begin to seriously evaluate potential options for future solar development until December 2013, a full year after the ANR subdivision was performed and in advance of the commencement of the formal RPS Class I rulemaking process that was undertaken to develop the RPS Solar Carve-Out II
- There appear to be considerable commercial and tax advantages for the Trust that were gained from performing the subdivision that are completely independent of any intent to develop a Solar Carve-Out II Renewable Generation Unit.
- Should the subdivision not have been performed, it appears as though the Trust would have been seriously limited in its ability to consider future options of leasing or selling the Site.

As a Statement of Qualification Application is not currently pending before the Department, please be advised that this pre-determination is not a final agency decision, is not binding on the Department, and does not give rise to any appeal right under M.G.L. c. 30A, or any other law. The Department will make a final determination on the eligibility of the Site at the time it issues a Statement of Qualification under 225 CMR 14.06. Such final determination may be different from the pre-determination contained in this letter if information provided by the Trust in its Request is materially inaccurate or incomplete.

If you have any questions regarding this determination, please contact Michael Judge at Michael.Judge@state.ma.us or 617-626-7368.

Sincerely,



Dwayne Breger
Director, Renewable and Alternative Energy Division

cc: Brian Kopperl - REM LLC
Bob Knowles - REM LLC