LIST OF EXHIBITS

EXHIBIT	DESCRIPTION
Α	Conant School Plan
В	Gates/Douglas Plan
C	McCarthy-Towne Elementary School ANR Plan/Sketch Plan
D	Elementary School Easement Form
Е	Conant School Utilities and Access Easement Form
F	Easement Plan for Sewer Pump Station
G1	Junior High School Easement Form
G2	High School Easement Form
Н	Draft Warrant Article re Disposition of Revolving Funds
. I .	List of Gift and Grant Accounts
I1	Draft Warrant Article re: Disposition of Gifts and Grants
J	List of Bonds and Credits
K	Assignment of Operating Agreements
L	Bill of Sale and Assignment
M _	Sewer Betterment Assessment Amortization Schedule
N	Commercial Power Purchase Agreement with Nexamp Capital PUB I, LLC
0	Assignment of Power Purchase Agreement
P	CPA Agreement concerning the Douglas School Basketball Courts
Q	CPA Agreement concerning the Gates School Playground;
R	Disclosure of Beneficial Interest Form
S	Authorizing Vote of A-B Regional School District Committee
Т	Authorizing Vote of A-B Transitional School Committee
Ū ·	Authorizing Vote of Acton Board of Selectmen
V	Authorizing Vote of Acton Public School Committee

Exhibit A

Conant Plan (to be attached)

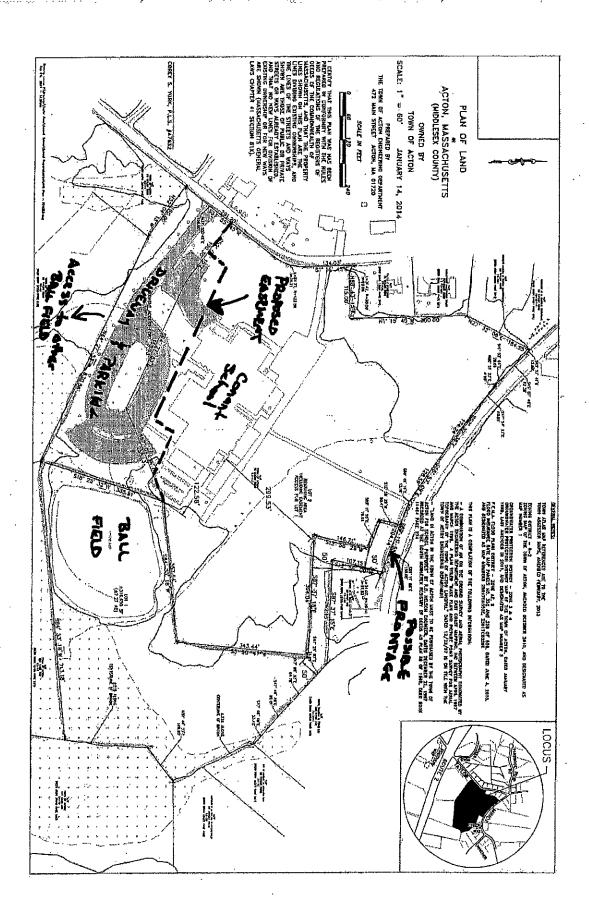
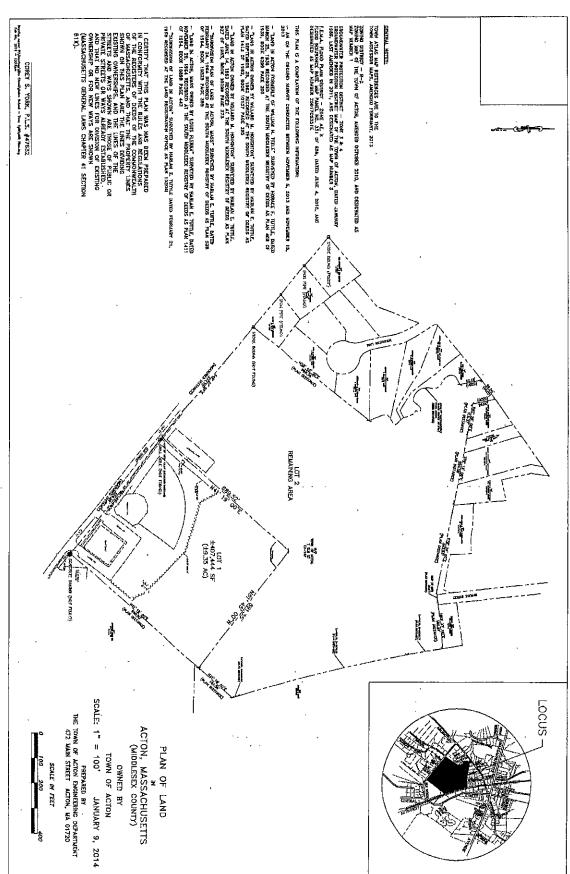


Exhibit B

Gates/Douglas Plan (to be attached)



TOTAL MARKET

Exhibit C

McCarthy-Town School Plan (to be attached)

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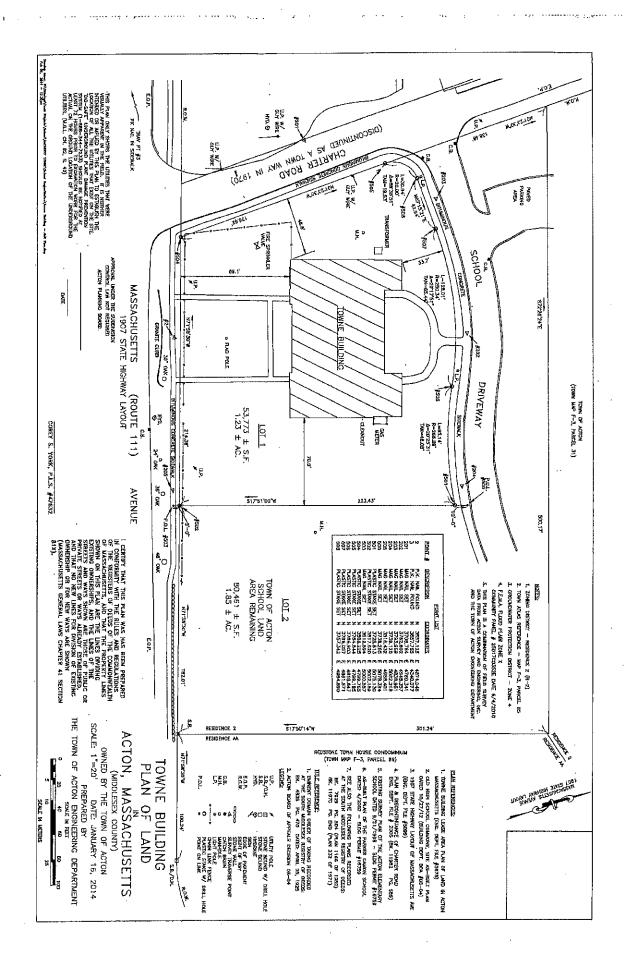


Exhibit D

Elementary School Easement Form

RECORD AND RETURN TO:

Stephanie B. Dubanowitz, Esq. Anderson & Kreiger LLP One Canal Park, Suite 200 Cambridge, MA 02141

~ Recording Information Area ~

ACCESS AND USE EASEMENT

WHEREAS, the 10wn of Acton, a Massachusetts municipality acting by and through its
duly authorized Board of Selectmen, with a mailing address of 472 Main Street, Acton
Massachusetts 01820 (the "Town"), owns the land and improvements located along
Acton, Massachusetts shown as "" (the "Property") on that
certain plan (the "Plan") entitled "" prepared by
, dated and recorded simultaneously herewith with
the Middlesex South District Registry of Deeds (the "Registry"), also attached hereto as
Exhibit 1 (for the Town's title to the Property see that certain deed recorded with the Registry in
Book, Page);
WHEREAS, the Acton-Boxborough Regional School District, a Massachusetts regional school district acting by and through its duly authorized Regional District School Committee, with a mailing address of 16 Charter Road, Acton, Massachusetts 01720 (the "District"), is acquiring the Property from the Town by that certain deed being recorded immediately hereafter; and
WHEREAS, in connection with the conveyance, the Town wishes to reserve a perpetua

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the District agree as follows:

easement in gross to access and use the Property for emergency shelters, elections and Town

Meetings, subject to the terms and conditions of this Easement.

1. The Town hereby reserves a perpetual right and easement in gross to pass and repass over, across and along and to use the Property: (i) as an emergency shelter; (ii) for federal, state and local elections; and (iii) for Annual and Special Town Meetings (but not meetings of boards, committees and other Town public bodies); provided, however, that Town's use of the Property for the purposes set forth in items (ii) and (iii) above shall not interfere with the District's use of

the Property (collectively, the "Permitted Uses"). The Permitted Uses shall be further subject to the following terms and conditions:

- (a) <u>Emergency Shelter</u>: The building on the Property shall be available, at the Town's sole cost and expense, as an emergency shelter during periods of federal, state or local declared emergencies. The Town shall maintain insurance coverage for its use of the Property as an emergency shelter, and shall provide the District with evidence of such insurance coverage upon request. The Regional District School Committee, in consultation with the Board of Selectmen of the Town, may from time to time promulgate policies governing the use of the Property for emergency shelter purposes, which policies shall accommodate both the need for the emergency shelter and the need to protect the Property and the health, safety and welfare of the District's employees and students during such an emergency.
- Elections: The building on the Property will be available to the Town for election (b) purposes on election days during the hours of 7:00 a.m. to 9:00 p.m., and during reasonable times before and after such elections necessary for the Town to assemble and disassemble polling places, to be determined by mutual agreement between the District and the Town. The Town's use of the Property for election purposes shall be at the Town's sole cost and expense. The Town shall maintain insurance coverage for its use of the Property for elections, and shall provide the District with evidence of such insurance coverage upon request. The Town shall provide written notice to the District at least thirty (30) days in advance of said elections and the District shall respond to the Town's request within five (5) business days. [Notwithstanding the foregoing, unless and until the Town provides notice to the District of any change, the District shall incorporate into its schedule every year: (i) the Annual Town Meeting for the election of Town Officers on the Tuesday immediately preceding the first Monday in April and (ii) all regular federal and state primary and general election days. [This language is for Conant School Easement only Subject to academic program requirements, during the times required for an election the District will not schedule other uses of the Property that interfere with the Town's rights hereunder. If the Town's request for the use of the Property for an election would interfere with the District's use of the Property, the parties shall work together to arrive at a mutually agreeable resolution.
- (c) Town Meetings: The building on the Property will be available to the Town for Annual and Special Town Meetings (except the Annual Town Meeting for the election of Town Officers) (a "Town Meeting") during the hours of 6:00 p.m. to midnight, and during reasonable times before and after a Town Meeting necessary for the Town to assemble and disassemble the space used for such Town Meeting, to be determined by mutual agreement between the District and the Town. The Town's use of the Property for Town Meeting purposes shall be at the Town's sole cost and expense. The Town shall maintain insurance coverage for its use of the Property for Town Meetings, and shall provide the District with evidence of such insurance coverage upon request. For the Town's use of the Property for an Annual Town Meeting, the Town shall provide notice to the District before the District generates its schedule for the year for the Property. For the Town's use of the Property for a Special Town Meeting, the Town shall provide at least thirty (30) days advance notice to the District and the District shall respond to said request within five (5) business days. If the Town's request for the use of the Property for a Town Meeting would interfere with the District's use of the Property, the parties shall work

together to arrive at a mutually agreeable resolution within five (5) business days of the District's response.

- 2. The Town shall have the right to permit the Town's employees, agents, contractors, guests and invitees, including without limitation the inhabitants of the Town of Acton, to use the Property for the Permitted Uses in accordance with this Easement.
- 3. Parking on the Property associated with the Permitted Uses shall be allowed subject to and in accordance with reasonable policies to be developed by the Regional District School Committee.
- 4. Any notice hereunder shall be in writing and shall be deemed to have been properly given when mailed, if mailed by registered or certified mail, return receipt requested, all charges prepaid, or when hand delivered or sent by a recognized overnight courier service, addressed as follows:

If to Town:

Town Hall

472 Main Street, Acton Massachusetts 01820 Attention: Town Manager

If to District:

Acton Boxborough Regional School District

16 Charter Road

Acton, Massachusetts 01720

Attention: Superintendent of Schools

- 5. The terms of this Easement shall run with the Property and shall benefit and be binding upon the successor owners thereof.
- 6. This Easement may only be amended by a written instrument, clearly designated to be an amendment, signed by all parties and recorded with the Registry.
- 7. It is the intention of the parties that the rights, easements and obligations under this Easement shall not be negated or merged by the merger doctrine even though the Town currently owns the Property as this Easement is occurring simultaneously with the conveyance of the Property to the District.
- 8. If any provision of this Easement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Easement shall nonetheless remain in full force and effect, and in the place of such invalid or unenforceable provision there shall be substituted a like, but valid and enforceable provision, which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the parties.
- 9. This Easement may be executed in two or more counterparts, each of which shall be an original for all purposes and all of which, taken together, shall constitute one and the same agreement.

WITNESS our hands and seal as of	Cthis day of, 2014.
	TOWN OF ACTON
	By its Board of Selectmen
	Name:
•	Chair: Duly authorized
. •	ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT
	By its Regional District School Committee
	Name: Chair:

[Acknowledgements appear on following page.]

COMMONWEALTH OF MASSACHUSETTS

		, SS.	, 2014
appeared which was acknowledge	ged to me tha	, proved to me through sa , to be the person what the signed it voluntarily for its	e undersigned notary public, personally tisfactory evidence of identification, no signed the preceding document and a stated purpose as Chair of the Acton astrument to be his/her free act and deed.
		Notary Public: My Commission	Expires:
	· Co	OMMONWEALTH OF MASS	SACHUSETTS
acknowledg	ged to me tha	, 2014, before me, th , proved to me through sa , to be the person what the signed it voluntarily for its	e undersigned notary public, personally stisfactory evidence of identification, no signed the preceding document and stated purpose as Chair of the Regional going instrument to be his/her free act and
		Notary Public:	
•		. My Commission	Expires:

Exhibit 1
Plan showing Property
(to be attached)

Exhibit E

Conant Utilities and Access Easement Form

RECORD AND RETURN TO:

Stephanie B. Dubanowitz, Esq. Anderson & Kreiger LLP One Canal Park, Suite 200 Cambridge, MA 02141

~ Recording Information Area ~

ACCESS AND USE EASEMENT

WHEREAS, the **Town of Acton**, a Massachusetts municipality acting by and through its duly authorized Board of Selectmen, with a mailing address of 472 Main Street, Acton, Massachusetts 01820 (the "<u>Town</u>"), owns the land and improvements located along Taylor Road Acton, Massachusetts shown as "Lot 1" and "Lot 2" (collectively, the "<u>Property</u>") on that certain plan (the "<u>Plan</u>") entitled "Plan of Land in Acton, Massachusetts (Middlesex County), prepared by the Town of Acton Engineering Department, dated January 14, 2014 and recorded herewith with the Middlesex South District Registry of Deeds (the "<u>Registry</u>"), also attached hereto as <u>Exhibit 1</u> (for the Town's title to the Property see that certain deed recorded with the Registry in Book 11464, Page 274);

WHEREAS, the Acton-Boxborough Regional School District, a Massachusetts regional school district acting by and through its duly authorized Regional District School Committee and Transitional Regional District School Committee, each with a mailing address of 16 Charter Road, Acton, Massachusetts 01720 (the "District"), is acquiring a portion of the Property shown as "Lot 2" ("Lot 2") on the Plan from the Town by that certain deed being recorded immediately hereafter; and

WHEREAS, in connection with the conveyance, the Town will retain a portion of the Property shown as "Lot 1" on the Plan ("Lot 1") and wishes to reserve a perpetual easement appurtenant to Lot 1 for access and utilities from the public way over, under, across and along a portion of Lot 2 shown on the Plan as "Proposed Easement" (the "Easement Area").

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the District agree as follows:

1. The Town hereby reserves a perpetual right and easement appurtenant to Lot 1 and to other Town-owned land south of the Easement Area identified as a portion of Parcel 42 on the Town of Acton Assessor's Map G-3 (the "Other Town Land") to (i) pass and

repass over, across and along the Easement Area for all purposes for which public ways are used in the Town of Acton, and (ii) locate, place, install, operate, maintain, repair, remove, upgrade and replace utilities of every type and kind, including but not limited to underground and above-ground pipes, conduits and manholes, related to the maintenance, upkeep, operation and use of the municipal use on Lot 1 and the Other Town Land, together with the permanent right of entry upon and passage over said Easement Area with any and all material and equipment necessary from time to time for all purposes stated herein and uses incidental thereto; provided, however, that the Town shall provide the District with notice prior to any entry upon the Easement Area for the purposes set forth in item (ii) above at least fifteen (15) days in advance of such entry, except in cases of emergency repairs for which the Town shall provide notice to the District as soon as possible, and except in cases where the District has provided the Town with a written waiver of this notice requirement.

- 2. In exercising its rights hereunder, the Town shall use reasonable efforts to minimize any interference with the District's use of the Property and the Easement Area, and shall immediately repair any damage to Lot 2 and its improvements caused by the Town's exercise of its rights hereunder. The Town hereby agrees to properly maintain and keep in good order and repair any facilities installed in the Easement Area. The Town shall maintain insurance coverage for its use of the Easement Area, and shall provide the District with evidence of such insurance coverage upon request.
- 3. The District agrees not to grant any easements, leases, deeds, licenses or any other rights to the Easement Area that will interfere with the Town's perpetual easement without the prior written consent of the Town.
- 4. The Town shall have the right to permit the Town's employees, agents, contractors, guests and invitees to use the Easement Area in accordance with this Easement.
- 5. The District reserves the right to relocate any part or parts of the Easement Area provided (a) the entire cost of such relocation, including but not limited to the cost of the relocation of any and all facilities in the Easement Area, is borne by the District, (b) the District provides a reasonable alternative for the Town's access to Lot 1 and to the Town-owned property south of the Easement Area, and (c) such relocation does not unreasonably interfere with or interrupt the Town's use of the Easement Area and the District uses diligent and good faith efforts to minimize any interruptions or interference of the Town's use of the Easement Area. The Town agrees to promptly execute and deliver to the District all documents reasonably required to effectuate any such relocation, provided that the Town receives at least thirty (30) days' prior written notice of any relocation.
- 6. Any notice hereunder shall be in writing and shall be deemed to have been properly given when mailed, if mailed by registered or certified mail, return receipt requested, all charges prepaid, or when hand delivered or sent by a recognized overnight courier service, addressed as follows:

If to Town:

Town Hall

472 Main Street, Acton Massachusetts 01820 Attention: Town Manager

If to District:

Acton Boxborough Regional School District

16 Charter Road

Acton, Massachusetts 01720

Attention: Superintendent of Schools

- 7. The terms of this Easement shall run with Lot 2 and shall benefit and be binding upon the successor owners of Lot 1 and Lot 2.
- 8. This Easement may only be amended by a written instrument, clearly designated to be an amendment, signed by all parties and recorded with the Registry.
- 9. It is the intention of the parties that the rights, easements and obligations under this Easement shall not be negated or merged by the merger doctrine even though the Town currently owns the Property. The parties acknowledge and agree that the reservation of this Easement is occurring simultaneously with the conveyance of a portion of the Property to the District and the Easement shall survive such conveyance.
- 10. If any provision of this Easement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Easement shall nonetheless remain in full force and effect, and in the place of such invalid or unenforceable provision there shall be substituted a like, but valid and enforceable provision, which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the parties.
- 11. This Easement may be executed in two or more counterparts, each of which shall be an original for all purposes and all of which, taken together, shall constitute one and the same agreement.

[The remainder of this page has been intentionally left blank.]

WITNESS our hands and seal as of t	his day of	, 2014.
	TOWN OF ACTON	
	By its Board of Selectmen	
	Name:	
	Chair; Duly authorized	
	ACTON-BOXBOROUGH REGI SCHOOL DISTRICT	ONAL
	By its Regional District School Con	mmittee
	Name: Chair:	
and the second s	Duly authorized	

[Acknowledgements appear on following page.]

COMMONWEALTH OF MASSACHUSETTS

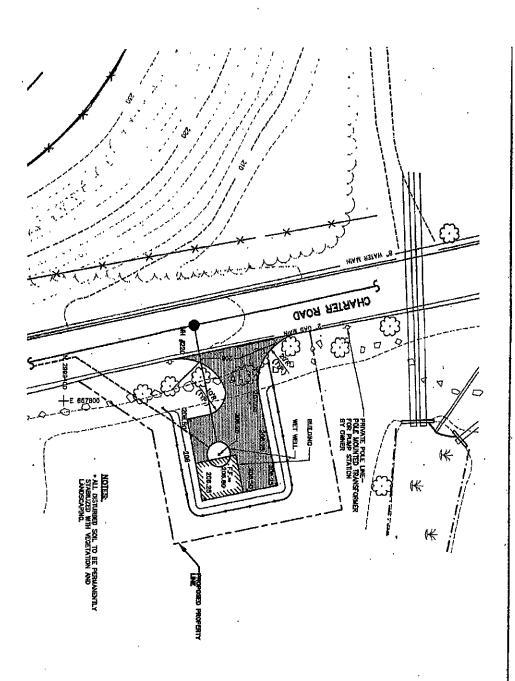
		, ss.	, 2014
appeared _ which was acknowled	ged to me that	, proved to me through sa , to be the person when signed it voluntarily for its	e undersigned notary public, personally tisfactory evidence of identification, ho signed the preceding document and a stated purpose as Chair of the Acton instrument to be his/her free act and deed.
·		Notary Public: My Commission	Expires:
	CO	MMONWEALTH OF MASS	SACHUSETTS
		, SS.	, 2014
acknowled	ged to me that l	ne signed it voluntarily for its	e undersigned notary public, personally atisfactory evidence of identification, ho signed the preceding document and a stated purpose as Chair of the Regional going instrument to be his/her free act and
	•		
		Notary Public:	
		My Commission	Evnirec

Exhibit 1
Plan showing Property
(to be attached)

Exhibit F

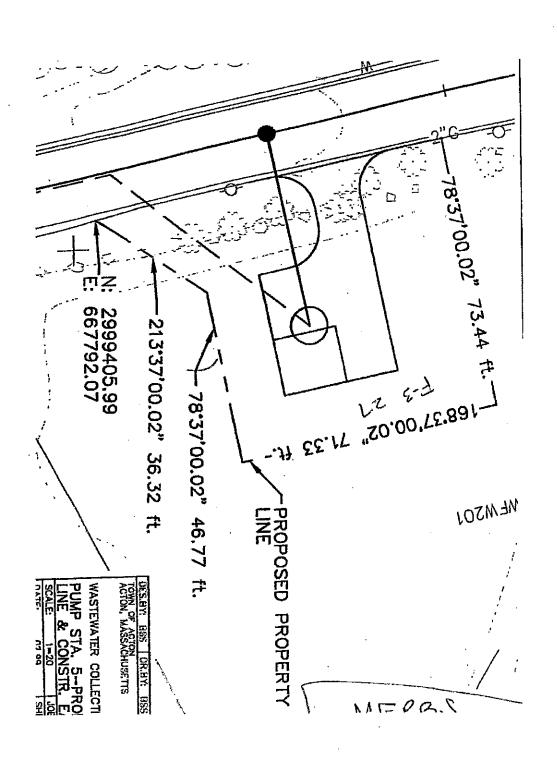
Easement Plan for Pump Station (to be attached)

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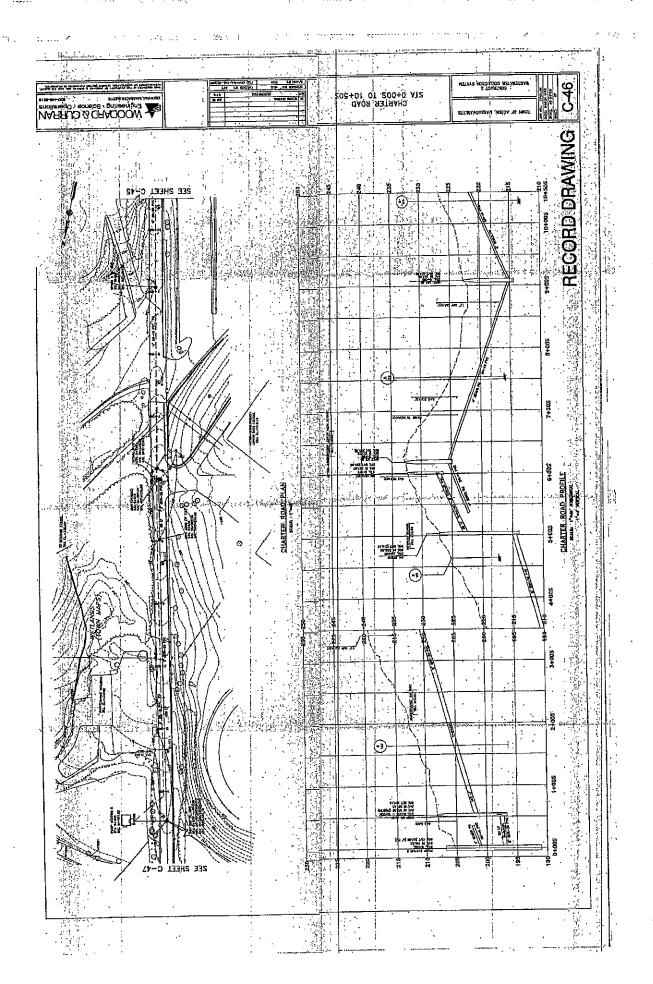
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C-45 NAFEUG & GRACIOOM CIRCUIT COMMON COMM CHARTER ROAD 7 CHARTER-ROAD PROFILE CHARTER ROAD PLAN SEE SHEEL C-46.

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Exhibit G1

Junior High School Easement Form

RECORD AND RETURN TO:

Stephanie B. Dubanowitz, Esq. Anderson & Kreiger LLP One Canal Park, Suite 200 Cambridge, MA 02141

~ Recording Information Area ~

ACCESS AND USE EASEMENT

WHEREAS, Acton-Boxborough Regional School	District, a Massachusetts regional
school district acting by and through its duly authorized Re	egional District School Committee
with a mailing address of 16 Charter Road, Acton, Massach	usetts 01720 (the "District"), owns
the land and improvements located along Charter Road, Actor	n, Massachusetts shown as ""
(the "Property") on that certain plan (the "Plan") entitled "	
prepared by, dated	and recorded with the Middlesex
South District Registry of Deeds (the "Registry") in Book	
Property see that certain deed recorded with the Registry in B	ook, Page);
WHEREAS, the Town of Acton, a Massachusetts mu	micipality acting by and through its
duly authorized Board of Selectmen, with a mailing add	lress of 472 Main Street, Acton,
Massachusetts 01820 (the "Town"), is granting various school	ol properties located in the Town of
Acton to the District simultaneously herewith by those cert	ain deeds being recorded with the
Registry herewith and is reserving easements for access	and use over the various school

WHEREAS, in connection with the foregoing conveyances, the Town wishes to obtain and the District desires to grant a perpetual easement in gross for the Town to access and use the Property for Town Meetings, elections and emergency shelters, subject to the terms and conditions of this Easement.

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and the Town agree as follows:

1. The District hereby grants to the Town a perpetual right and easement in gross to pass and repass over, across and along and to use the Property: (i) as an emergency shelter; (ii) for federal, state and local elections; and (iii) for Annual and Special Town Meetings (but not meetings of boards, committees and other Town public bodies); provided, however, that Town's

properties, and

use of the Property for the purposes set forth in items (ii) and (iii) above shall not interfere with the District's use of the Property and, unless otherwise provided below, shall be subject to the District's receipt of written notice at least thirty (30) days in advance of said events (collectively, the "Permitted Uses"). The Permitted Uses shall be further subject to the following terms and conditions:

- (a) <u>Emergency Shelter</u>: The building on the Property shall be available, at the Town's sole cost and expense, as an emergency shelter during periods of federal, state or local declared emergencies. The Town shall maintain insurance coverage for its use of the Property as an emergency shelter, and shall provide the District with evidence of such insurance coverage upon request. The Regional District School Committee, in consultation with the Board of Selectmen of the Town, may from time to time promulgate policies governing the use of the Property for emergency shelter purposes, which policies shall accommodate both the need for the emergency shelter and the need to protect the Property and the health, safety and welfare of the District's employees and students during such an emergency.
- Elections: The building on the Property will be available to the Town for election purposes on election days during the hours of 7:00 a.m. to 9:00 p.m., and during reasonable times before and after such elections necessary for the Town to assemble and disassemble polling places, to be determined by mutual agreement between the District and the Town. The Town's use of the Property for election purposes shall be at the Town's sole cost and expense. The Town shall maintain insurance coverage for its use of the Property for elections, and shall provide the District with evidence of such insurance coverage upon request. Upon receiving prior written notice that the Town intends to use the Property for an election, the District will incorporate such election date into the District's schedule for use of the Property. Subject to academic program requirements, during the times required for an election the District will not schedule other uses of the Property that substantially interfere with the Town's rights hereunder. If the Town's request for the use of the Property for an election would interfere with the District's use of the Property, the parties shall work together to arrive at a mutually agreeable resolution. Notwithstanding anything contained in this Easement to the contrary, unless and until the Town provides notice to the District of any change, the District shall incorporate into its schedule every year (i) the Annual Town Meeting for the election of Town Officers on the Tuesday immediately preceding the first Monday in April, and (ii) all regular federal and state primary and general election days.
- (c) <u>Town Meetings</u>: The building on the Property will be available to the Town for Annual and Special Town Meetings (except the Annual Town Meeting for the election of Town Officers) (a "<u>Town Meeting</u>") during the hours of 6:00 p.m. to midnight, and during reasonable times before and after a Town Meeting necessary for the Town to assemble and disassemble the space used for such Town Meeting, to be determined by mutual agreement between the District and the Town. The Town's use of the Property for Town Meeting purposes shall be at the Town's sole cost and expense. The Town shall maintain insurance coverage for its use of the Property for Town Meetings, and shall provide the District with evidence of such insurance coverage upon request. Upon receiving prior written notice that the Town intends to use the Property for a Town Meeting, the District will incorporate such Town Meeting date into the District's schedule for use of the Property. Subject to academic program requirements, during the times required for a Town Meeting, the District will not schedule other uses of the Property

that substantially interfere with the Town's rights hereunder. If the Town's request for the use of the Property for a Town Meeting would interfere with the District's use of the Property, the parties shall work together to arrive at a mutually agreeable resolution.

- 2. The Town shall have the right to permit the Town's employees, agents, contractors, guests and invitees, including without limitation the inhabitants of the Town of Acton, to use the Property for the Permitted Uses in accordance with this Easement.
- 3. Parking on the Property associated with the Permitted Uses shall be allowed subject to and in accordance with reasonable policies to be developed by the Regional District School Committee.
- 4. Any notice hereunder shall be in writing and shall be deemed to have been properly given when mailed, if mailed by registered or certified mail, return receipt requested, all charges prepaid, or when hand delivered or sent by a recognized overnight courier service, addressed as follows:

If to District:

Acton Boxborough Regional School District

16 Charter Road

Acton, Massachusetts 01720

Attention: Superintendent of Schools

If to Town:

Town Hall

472 Main Street, Acton Massachusetts 01820 Attention: Town Manager

- The terms of this Easement shall run with the Property and shall benefit and be binding upon the successor owners thereof.
 - 6. This Easement may only be amended by a written instrument, clearly designated to be an amendment, signed by all parties and recorded with the Registry.
 - 7. If any provision of this Easement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Easement shall nonetheless remain in full force and effect, and in the place of such invalid or unenforceable provision there shall be substituted a like, but valid and enforceable provision, which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the parties.
 - 8. This Easement may be executed in two or more counterparts, each of which shall be an original for all purposes and all of which, taken together, shall constitute one and the same agreement.

WITNESS our hands and seal as of thi	is, 2014.
•	ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT
	By its Regional District School Committee
	Name: Chair: Duly authorized
j.	TOWN OF ACTON
F	By its Board of Selectmen
C	Name: Chair: Duly authorized

[Acknowledgements appear on following page,]

· CO	OMMONWEALTH OF MA	ASSACHUSETTS
	, ss.	, 2014
appearedwhich wasacknowledged to me that	, proved to me through , to be the person he signed it voluntarily for	the undersigned notary public, personally a satisfactory evidence of identification, who signed the preceding document and its stated purpose as Chair of the Regional pregoing instrument to be his/her free act and
	•	
	Notary Public: My Commissio	on Expires:
	COMMONWEALTH OF M	
	, \$8,	, 2014
which wasacknowledged to me that	to be the person he signed it voluntarily for	the undersigned notary public, personally a satisfactory evidence of identification, who signed the preceding document and its stated purpose as Chair of the Acton g instrument to be his/her free act and deed.
	Notary Public:	
	My Commission	on Expires:

Exhibit G2

High School Easement Form

RECORD AND RETURN TO:

Stephanie B. Dubanowitz, Esq. Anderson & Kreiger LLP One Canal Park, Suite 200 Cambridge, MA 02141

~ Recording Information Area ~

ACCESS AND USE EASEMENT

school district actin with a mailing addr the land and improv	Acton-Boxborough Regional School g by and through its duly authorized R ess of 16 Charter Road, Acton, Massach ements located along Charter Road, Actor that certain plan (the "Plan") entitled "	egional I usetts 01 n, Massa	District School Committee 720 (the " <u>District</u> "), owns chusetts shown as ""
prepared by	, dated	and re	corded with the Middlesex
South District Regis	try of Deeds (the "Registry") in Book	Page	_ (for District's title to the
	tain deed recorded with the Registry in B		
duly authorized Bo Massachusetts 0182 Acton to the Distric	the Town of Acton , a Massachusetts musard of Selectmen, with a mailing add 0 (the " <u>Town</u> "), is granting various school simultaneously herewith by those certain is reserving easements for access	dress of ol proper tain deed	472 Main Street, Acton, ties located in the Town of s being recorded with the
and the District desi	in connection with the foregoing converges to grant a perpetual easement in gross Meetings, elections and emergency seement.	for the	Town to access and use the

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and the Town agree as follows:

1. The District hereby grants to the Town a perpetual right and easement in gross to pass and repass over, across and along and to use the Property: (i) as an emergency shelter; (ii) for federal, state and local elections; and (iii) for Annual and Special Town Meetings (but not meetings of boards, committees and other Town public bodies); provided, however, that Town's

use of the Property for the purposes set forth in items (ii) and (iii) above shall not interfere with the District's use of the Property and, unless provided otherwise below, shall be subject to the District's receipt of written notice at least thirty (30) days in advance of said events (collectively, the "Permitted Uses"). The Permitted Uses shall be further subject to the following terms and conditions:

- a. <u>Emergency Shelter</u>: The building on the Property shall be available, at the Town's sole cost and expense, as an emergency shelter during periods of federal, state or local declared emergencies. The Town shall maintain insurance coverage for its use of the Property as an emergency shelter, and shall provide the District with evidence of such insurance coverage upon request. The Regional District School Committee, in consultation with the Board of Selectmen of the Town, may from time to time promulgate policies governing the use of the Property for emergency shelter purposes, which policies shall accommodate both the need for the emergency shelter and the need to protect the Property and the health, safety and welfare of the District's employees and students during such an emergency.
- Elections: The building on the Property will be available to the Town for election purposes on election days during the hours of 7:00 a.m. to 9:00 p.m., and during reasonable times before and after such elections necessary for the Town to assemble and disassemble polling places, to be determined by mutual agreement between the District and the Town. The Town's use of the Property for election purposes shall be at the Town's sole cost and expense. The Town shall maintain insurance coverage for its use of the Property for elections, and shall provide the District with evidence of such insurance coverage upon request. Upon receiving prior written notice that the Town intends to use the Property for an election, the District will incorporate such election date into the District's schedule for use of the Property. Subject to academic program requirements, during the times required for an election the District will not schedule other uses of the Property that substantially interfere with the Town's rights hereunder. If the Town's request for the use of the Property for an election would interfere with the District's use of the Property, the parties shall work together to arrive at a mutually agreeable resolution, but in no event shall the Town be permitted to use the Property for election purposes on any day in which school is in session without the express prior approval of the Regional District School Committee, which approval shall not be unreasonably withheld. It shall be reasonable for the Regional District School Committee to withhold such approval if holding an election at the Property on any day in which school is in session would conflict with parking, classroom, gymnasium and other space necessary for the District's students and staff.
- c. <u>Town Meetings</u>: The building on the Property will be available to the Town for Annual and Special Town Meetings (except the Annual Town Meeting for the election of Town Officers) (a "<u>Town Meeting</u>") during the hours of 6:00 p.m. to midnight, and during reasonable times before and after a Town Meeting necessary for the Town to assemble and disassemble the space used for such Town Meeting, to be determined by mutual agreement between the District and the Town. The Town's use of the Property for Town Meeting purposes shall be at the Town's sole cost and expense. The Town shall maintain insurance coverage for its use of the Property for Town Meetings, and shall provide the District with evidence of such insurance coverage upon request. Unless and until the Town provides notice to the District of any change, the District shall incorporate into its schedule every year the following Annual Town Meeting times: (i) the first Monday in April following the Town Election and (ii) such adjourned sessions

as may be necessary to complete the business of the Annual Town Meeting (which may include, in addition to the first Monday in April, the immediately following Tuesday and Wednesday and the next Monday through Wednesday if needed). Subject to academic program requirements, during the times required for a Town Meeting, the District will not schedule other uses of the Property that interfere with the Town's rights hereunder. For the Town's use of the Property for Special Town Meetings, the Town shall provide at least thirty (30) days advance notice to the District, and the District shall respond to said request within five (5) business days. If the Town's request for the use of the Property for a Special Town Meeting would interfere with the District's use of the Property, the parties shall work together to arrive at a mutually agreeable resolution within five (5) business days of the District's response.

- 2. The Town shall have the right to permit the Town's employees, agents, contractors, guests and invitees, including without limitation the inhabitants of the Town of Acton, to use the Property for the Permitted Uses in accordance with this Easement.
- 3. Parking on the Property associated with the Permitted Uses shall be allowed subject to and in accordance with reasonable policies to be developed by the Regional District School Committee.
- 4. Any notice hereunder shall be in writing and shall be deemed to have been properly given when mailed, if mailed by registered or certified mail, return receipt requested, all charges prepaid, or when hand delivered or sent by a recognized overnight courier service, addressed as follows:

If to District:

Acton Boxborough Regional School District

16 Charter Road

Acton, Massachusetts 01720

Attention: Superintendent of Schools

If to Town:

Town Hall

472 Main Street, Acton Massachusetts 01820 Attention: Town Manager

- 5. The terms of this Easement shall run with the Property and shall benefit and be binding upon the successor owners thereof.
- 6. This Easement may only be amended by a written instrument, clearly designated to be an amendment, signed by all parties and recorded with the Registry.
- 7. If any provision of this Easement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Easement shall nonetheless remain in full force and effect, and in the place of such invalid or unenforceable provision there shall be substituted a like, but valid and enforceable provision, which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the parties.

8. This Easement may be executed in two or more counterparts, each of which shall be an original for all purposes and all of which, taken together, shall constitute one and the same agreement.

WITNESS our hands and seal as of t	his, 2014.
	ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT
	By its Regional District School Committee
-	Name: Chair: Duly authorized
	TOWN OF ACTON
	By its Board of Selectmen
	Name:
	Chair:
- · · · · · · · · · · · · · · · · · · ·	Duly authorized

[Acknowledgements appear on following page.]

	CC	OMMONWEALTH OF MAS	SACHUSETTS	***
		, ss.		, 2014
appeared _ which was acknowled	ged to me that	, 2014, before me, t , proved to me through s , to be the person w he signed it voluntarily for it see and acknowledged the fore	atisfactory evidence of its who signed the preceding its stated purpose as Chair	document and of the Regional
		Notary Public: My Commission	n Expires:	
		COMMONWEALTH OF M	ASSACHUSETTS	
		, ss.		, 2014
acknowled	lged to me that	, 2014, before me, t , proved to me through s , to be the person v he signed it voluntarily for i acknowledged the foregoing	ts stated purpose as Chai	r of the Acton
	•	Notary Public:	4.000	
•		My Commission	n Expires:	

Exhibit H

Draft Warrant Article re Revolving Funds/Special Accounts

ARTICLE 23 (Majority vote) TRANSFER AND APPROPRIATION OF SCHOOL REVOLVING FUND BALANCES

To see if the Town will vote to close the following revolving funds and lunch funds as of June 30, 2014, and transfer the balance in each fund at the end of fiscal year 2014 to surplus revenue:

- 1. Douglas at Dawn/Dusk Revolving Fund;
- 2. Merriam Mornings/Afternoons/Summer Revolving Fund;
- 3. Acton Public School Lunch Fund;
- 4. Conant School Lunch Fund;
- 5. Douglas School Lunch Fund;
- 6. McCarthy-Towne School Lunch Fund;
- 7. Merriam School Lunch Fund; and
- 8. Gates School Lunch Fund.

And further to see if the Town will vote to appropriate an amount equal to each such balance and transfer each such amount on or after July 1, 2014, to the Acton Boxborough Regional School District pursuant to M.G.L. c. 44, § 53A, or other applicable law or regulation, to be held (together with any interest thereon) by the District as a separate account and expended by the District at the same school for the same purposes as the prior revolving fund or lunch fund, as applicable,

or take any other action relative thereto:

SUMMARY

At the Special Town Meeting on June 3, 2013, the Acton and Boxborough Town Meetings voted to approve an amended Agreement for a Regional School District for the Towns, the primary purpose of which is to fully regionalize the public schools in the Towns. On July 29, 2013, the Commissioner of Elementary and Secondary Education approved the amended Regional Agreement. The effective date of the amended Regional Agreement is July 1, 2014.

The Selectmen, the Acton Public School Committee, and the Acton-Boxborough Regional School District Committee have executed an Intermunicipal Agreement to address a number of transition issues. One of those issues relates to the disposition of the revolving funds and lunch funds listed above, which have accumulated from specific programs for specific purposes listed above, to serve the Acton public schools. To preserve these programs after the schools move to full regionalization, this article closes the existing funds in accordance with M.G.L. c. 44, § 53E½, appropriates an identical amount, and transfers the amount to the District to be held and used for the same program/purpose at the same school going forward.

Exhibit I

List of Gift Accounts (to be attached)

Exhibit I

Grant and Gift Accounts

SCHOOL GRANTS	<u>MUNIS</u> Fund #
SPED IDEA #240	2001
TITLE I #305	2002
SPED EARLY CHILDHOOD #262	2003
SPED PROGRAM IMPROVEMENT #275	2006
TITLE V #302	2007
TITLE IIA #140	2008
TITLE IID #160	2009
EARLY CHILDHOOD TRAINING #291	2010
OUTDOOR CLASSROOM #EPA	2011
ENROLLMENT GROWTH AID	2012
MA PARENT INVOLVEMENT	2013
SPED ELECTRONIC PORTFOLIO	2014
SPED PROG REVIEW	2015
ARRA SFSF #782	2016
ARRA SPED IDEA #760	2017
TITLE IV #332 SAFE & DRUG FREE	2018
ARRA EARLY CHILDHOOD #762	2019
COMMUNITY SERVICE LEARN	2020
#305 TITLE I CARRY FORWARD	2021
2022 TITLE III - ELA #180	2022
EDUCATION JOBS FUND	2023
TITLE 111 ELA CARRYFORWARD	2024
PUBLIC LAW 874	2101
ACADEMIC SUPPORT	2201
SCHOOL CHOICE	2205
RESIDENTIAL TUITION	2206
BAY STATE READERS 2ND	2207
SINGAPORE MATH	2208
MCC ARCHEOLOGY	2209
TEACHING AMERICAN HISTORY	2210
MCC BIG YELLOW SCHOOL BUS	2249
APS BROADCOM GRANT	2250
	MUNIS
SCHOOL GIFTS	<u>Fund #</u>
APS LIBRARY SUPPORT	2601
APS SUPERINTENDENT	2602
ENHANCED SCHOOL HEALTH	2603
(ADZ31996,1)	

APS DAMON BLDG PLAYGROUND	2604
APS CARE GROUP	2605
APS ESL AFTER SCHOOL	2606
APS "WE THE PEOPLE" GIFT	2607
APS PARENT INVOLVEMENT	. 2608
APS PD OUTDOOR CLASSROOM	2609
APS CONANT PTO	2610
APS DOUGLAS PTO	2611
APS GATES PTO	2612
APS MCCARTHY TOWNE PTO	2613
APS MERRIAM PTO	2614
CONANT ADK GIFT	2615
APS CONANT LIBRARY	2616
APS CONANT TECHNOLOGY	2617
APS DOUGLAS DEC MATH	2618
APS DOUGLAS JAPANESE	2619
APS DOUGLAS MENTORING	2620
APS GATES PRIVATE	2621
APS MCCARTHY TECHNOLOGY	2622
APS MCCARTHY ADK GIFT	2623
APS TOYOTA TAPESTRY	2624
APS MERRIAM ADK GIFT	2625
CONANT FOUNDATION MTG GIFT	2626
DOUGLAS FOUNDATION MTG GIFT	2627
GATES FOUNDATION MTG GIFT	2628
MCCARTHY FOUNDATION MTG GIFT	2629
MERRIAM FOUNDATION MTG GIFT	2630
DOUGLAS ADK	2631
GATES ADK	2632
CON: PROFESSIONAL DEVELOPMENT GIFT	2633
APS PUPIL SERVICES GIFT	2634
APS GIFT	2635
COMM ED ADK GIFT	2636
PETERSON GIFT	2637
ACTON GARDEN CLUB GIFT	2638
EDFAAB GIFT	2639
GATES PLAYGROUND EQUIPMENT	2640
CONANT ART GIFT	2641
MERRIAM HANDSHAKE PROJECT	2642
MERRIAM ORGANIC GARDENING PRI	2643
KONG GATES ZHUANG GIFT	2644
GATES STONE FOUNDATION	2645
CURRICHI JIM GIFTS	2646

WEST ACTON BOARDWALK	2647
CONANT ENRICHMENT GIFT	2648
GATES ENRICHMENT GIFT	2650
MCT ENRICHMENT GIFT	2651
MERRIAM OPEN CIRCLE	2653

the moderning the committee that the terms of the

Company of the Compan

Exhibit I1

Draft Warrant Article re Disposition of Gifts and Grants

ARTICLE 24

TRANSFER OF SCHOOL GIFTS AND GRANTS

(Majority vote)

To see if the Town will, subject to all applicable terms and conditions of each grant and gift, and to any necessary judicial or other governmental approvals, vote to appropriate and authorize the Town Treasurer, in consultation with the Town Manager, to transfer on or after July 1, 2014, to the Acton-Boxborough Regional School District ("District") the balance (if any) at the end of fiscal year 2014 of each gift and grant fund listed on the corresponding Exhibit to the Intermunicipal Agreement between the Town and the District dated as of March 2014, each such amount to be held (together with any interest thereon) by the District pursuant to M.G.L. c. 44, § 53A, as a separate account and expended by the District for the same purpose as the purpose of the prior gift or grant to the Town, or take any other action relative thereto:

SUMMARY

At the Special Town Meeting on June 3, 2013, the Acton and Boxborough Town Meetings voted to approve an amended Agreement for a Regional School District for the Towns, the primary purpose of which is to fully regionalize the public schools in the Towns. On July 29, 2013, the Commissioner of Elementary and Secondary Education approved the amended Regional Agreement. The effective date of the amended Regional Agreement is July 1, 2014.

The Selectmen, the Acton Public School Committee, and the Acton-Boxborough Regional School District Committee have executed an Intermunicipal Agreement to address a number of transition issues. One of those issues relates to the disposition of gifts and grants currently held by the Town for school purposes. Subject to appropriation, to all applicable terms and conditions of each grant and gift, and to any necessary judicial or other governmental approvals, this article authorizes the Treasurer to transfer on or after July 1, 2014, the remainder of these existing gift and grant funds to the District to be held pursuant to M.G.L. c. 44, § 53A, as a separate account and expended by the District for the same purpose as the purpose of the prior gift or grant to the Town.

Exhibit J

List of Bonds Subject to Credits (to be attached)

Affected Sonds

Town of Acton, Massachusetta Status of "School Incurred Dabi" 13-Hov-13

	Amount	Peincipul	interest	(P and I)	MSBA	Potential FY15
	of original		D/S at	FYLS		ristment
Cate Gescriotion	Scored	7/1/2014	7/1/2014	Debi Service	_ Trimbuciemen1 _	tredit Line Opperator representational blacket.
7/1/2013 School Refunding Bond (Twin School original)	21,350,000,00	11,110'000'00.	102 O14 400 D0 100	700 P	1332 922 673.00	2,611,027,00 2. (2) 11 12 13 14 15 15 15 15 15 15 15 15 15 15 15 15 15
Total Inside 2 1/2	21,350,000.00	11,110,000,00	3,014,400.00 0	.00 1,533,700.00	922,673.00	E11,027.00
AND THE RESERVE OF THE PROPERTY OF THE PROPERT	PARTITO TO THE PARTITION OF THE PARTITIO	MACONT TOTAL	Hanney Jour Lines	See Soon of the Control of the Contr	errespectation de la company	nometra principal de la companya de
VI/2004 School Heating Repairs Public Sales	164,000.00	13 000 00	SECTION TO A PARTICULAR PROPERTY.	16.776.9	Of National Control of the Control o	16,996.96 14,192.40
1/1/2014 School Heating Repairs State Course Note Sale	136,000.00 167,606.00	245 000.00	THE THE PERSON NAMED IN COLUMN TWO IS NOT THE OWNER.	11903		
4/15/2017 Available School Project -MSBA/Douglas Roci 2 Project -MSBA/Douglas - Project - MSBA/Douglas - Project - MSBA/Douglas - Project - MSBA/Douglas - Project	131,205,00	600.000.00	City, Cornel of bucht steel, which	76.755 D		76,735,00
G/15/2010 Art 28 4/7/08 School Repairs School Facilities	215 770 60	185,000,00	Confederate was your 1941	24.501.2	the age of the big on the property of	24.501.25
4/15/2010 Auf. 29 4/7/00 Links North Links	installs friend access access	oż ika warowa.	A STATE OF THE PARTY OF THE PAR	With State of State o	Catherraphy (Action area)	And the second s
Total Gutuide 2 1/2	1,664,681,00	1,060,000.00	163,346,61 0	.00 157,364.1	0.00	157,364.11
Intel Courses \$ 11%	2)44-7-4-2-44		K,			
' Yesthi	29,014,681,00	12,170,000,00	2,177,746,61 0	.00 1,691,064,1	922,673,00	768,391.11



Steven Grossman Chairman, State Treasurer John K. McCarthy
Executive Director

Via E-mail

September 12, 2013

Mr. Stephen Barrett Finance Director Town of Acton 472 Main Street Acton, MA 01722

Re: Advance Refunding for Acton's Parker Damon School (Project # C20033828)

Dear Mr. Barrett,

The Town of Acton recently informed the MSBA that the Town refunded bonds related to the Parker Damon School, Project C20033828.

Pursuant to M.G.L. c.70B §19, the MSBA has recalculated its grant for this Project to reflect the MSBA's interest savings resulting from the Town's refunding. As a result, the following adjustment will be made to the remaining grant payments for this Project beginning in Fiscal Year 2015:

Current annual payment	Adjustment	Revised Annual Payment from FY 2015 Through FY 2021
\$ 1,009,310	(\$ 86,636)	\$ 922,673

Current annual payment	Adjustment	Revised Annual Payment from FY 2022		
\$ 1.009,310	(\$ 86,637)	Through FY 2023 \$ 922,672		

You may contact me if you have any questions at (617) 720-4466.

Very truly yours,

Jennifer Gonzalez
Director of Finance

Ce: Ms.

Ms. Lynne Foster, Financial Advisor, Unibank Fiscal Advisory Services, Inc.

Mr. Anthony Rassias, Department of Revenue

06-17-2010

12/15/23

66/15/24

Total

15,000,00

0.00

DEST SERVICE SCHEDULE

COLORA

Town of Acton, Massachusetts

ISSUE PURPOSE Building Remodeling - School (inside the debt limit)

ISSUE AMOUNT ,..... \$ 245,270,00 FINANCIAL ADVISOR UniBank Fiscal Advisory Services ISSUE DATE 06/15/10 PAYING AGENT U.S. Bank National Association ISSUE TYPE Gaperal Obligation Bond REGISTRAR The Depository Trust LEGAL OPINION Edwards Angell Palmer & Dodge BANK QUALIFIED Yes FUNCHASER Robert W. Baird STATE QUALIFIED No INSURER (none) SELF-SUPPORTING No CUSIP NUMBER COSOGS Principal . Principal Interest Principal Сопром Call Cusin Date Balance Payment _Payment & Interest Rate Humber Price 06/15/10\$ 245,270.00 5 245.270.00 0.00 3,053.33 4 3.053.33 06/15/11 225,000.00 20,270.00 3,053.32 🗥 23.323.32 2.0000 M RR1 225,000.00 12/15/11 . Viestre..... 0.05 2.850.63 2.950.63 06/15/12 2,050.62 20,000.00 205,000.00 22,850.62 2.0000 MA KB9 12/15/12 205,000.00 0.00 2.650.63 2.658.61 06/15/13 185,000.00 2,650.620 17 20,000.00 @ 22,650,62 2.0000 HA KT I 185,000.00 0.00 2,450.637 2,450,63 06/15/14 2,450.62) 14 165,000.00 20,000.00. 22,450.62 2.0000 KU4 163,000.00 2,250,63 12/15/14 0.00 2,250.63 06/15/15 145,000.00 20,000.00 22.250.62 2.0000 NA KV2 12/15/15 145,000.00 0.00 2,050.637 Z.050.63 06/15/16 125,000.00 2,050.62 20,000.00 22,050.62 2.0000 NA kum 12/15/16 125,000,00 0.00 1,850.637 1.450.63 105,000,00 20,000.00 1,850,62 21,850.62 2,2500 NA ICX B 105.000.00 0.00 1,625.637 1,625.63 90,000.00 13,000.60 1,625.62) 16.625.62 1.0000 NA XY6 12/15/18 90,000.00 0.00 1,400.63 1,400.63 06/15/19 75.000.00 15.000.00 1,400.62 16,400.62 3.0000 100.0000 KZ3 12/15/19 75,000.00 0.00 1,175.631 1,175,63 06/15/20 60,000.00 15.000.00 1,175.62 16,175.62 3.0000 100.0000 LA7 12/15/20 60.000.08 0.00 550.637 950.63 06/15/2145,800,00 15,000.00 950,62) 15,950.62 3.0000 100.0000 185 12/15/21 45.000.00 0.00 725.63) 725.63 06/15/22 30,000.00 15,900.00 725.62. 15,725.52 3.1250 100.0000 ıcı 12/15/72 30,000.00 0.00 491.253 491,25 06/15/23 15,000.00 15.000.00 492,25) 15,491.25 3.2500 100.0000 LD1

247.50

247,50

47,547.90 \$

0.00

15,000.00

245,270.00

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(0Y)

247.50

3.3000 100.0000

LE9

15,247.50

292,837.90

Company of the control of the contro

DEBT BERVICE SCHEDULE



291207

Town of Acton, Massachusetts

ISSUE PURPOSE	School Project (outside the deb	ot limit)	
ISSUE AHOUNT	\$ 267,606.00	FINANCIAL ADVISOR	UniBank Fiscal Advisory Services
ISSUE DATE	08/15/12	PAYING AGENT	U.S. Bank National Association
ISSUE TYPE	General Obligation Bond	REGISTRAR	The Depository Trust
EXEMPT average entry ever	No	LEGAL OPINION	Edwards Wildman Palmer
BANK QUALIFIED	Yes	PURCHASER	FNC Capital Markets
STATE QUALIFIED	No	INSURER	(none)
SELF-SUPPORTING	Ио	CUSIP NUMBER	005068

4	Principal	Principal	Interest	Principal	Солбоц	Call	Cusip
ate	Balance	Payment	<u>Payment</u>	# Interest	Rate	Price	Number
1/15/12 21 - 22 - 1 - 1 - 1 - 5	267,506.00		Ę	Ę		¥	, .
//15/13	267,606.00	0.00	2,832.31			وومها يتقسيس	فليعي عبران
/15/13	245,000.00	22,606.00	2,832,31.	25,438.31	2.0000	NA	LF6
/15/14	245,000.00	4 48 4 4 4 4 60 C	2,606,25	2,606,25		m &Y & Propherson year.	
/15/14	235,000.00	20,000.60	2,606.25	22,606,25	3.0000	ΝA	LG4
/15/15	225,000.00	0,00	2,306.25	2,306.25			
/15/15	205,000.00	20,000.00	2,306.25	22,306.25	3.0000	NA	LH2
1/15/16	205,000.00	0,00	2,006.25	2,006.25			
/15/16	185,000.00	20,000.00	2,006.35	22,006.25	2.0000	NA	LJ8
/15/27	185,000.00	0.00	1,206,25	1,806.25			
1/15/17	165,000.00	20,000,00	1,606,25	21,806.25	2.0000	NA	LKS
1/15/18	165,000.00	0.00	1,606.25	1,606,25			
/15/18	145,000.00	20,000,00	1,606,25	21,606.25	2.0000	NA	LLI
/15/19 (145,000,00	5.00	1,406-25	1,406.25			
/15/19	125,000,00	20,000.00	1,406.25	21,406,25	2.0000	NA	LMI
2/25/20	125,000.00	0.00	1,206,25	1,206.25			•
1/15/20	105,000.00	20,000.00	1,206.25	21,206,25	1.3750	· NA	LNS
/15/21 ,	105,000,00	0.00	1,068.75	1,068.75			
/15/21	90,000.00	15,000,00	1,068,75	16,068.75	1.5000	100.0000	LP4
/15/22	90,000,00	0,00	956.25	956.29			
/15/22	75,000.00	15,000.00	956.25	15,956.25	2.1250	100.0000	LV1
/15/23	75,000.00	0.00	796.80	796.80			
/15/23	60,000.00	15,000.00	796.87	15,796.87	2.1250	100,0000	LVI
/15/24	60,000.00	0.00	637.50	637.50			ल⊤≐
/15/24	45,000.00	15,000.00	637.50	15,637.50	2.1750	100.0000	LV1
/15/25	45,000.00	0,00	478.13	478,13			
/15/25	30,000.00	15,000.00	478.12	15,478,12	2,1250	100,0000	LV1
/15/26	30,000.00	. 0.00	310.75	318.75		,	are 1 18
/15/26	15,000.00	15,000.00	319.75	15,318.75	2,1250	100.0000	LVŁ
/15/27	15,000.00	0.00	159,38	159.38			274
/15/27	0.00	15,000.00	159.37	15,159.37	2,1250	100.0000	LV1
Total	-	\$ 267,606.00			- 3	#441AAAA	DAT
		**********		*=======			

 Net Interest Cost
 1.678910 (premium * 102 652108)

 True Interest Cost
 1.648136

 Average Life
 7.408675 years

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Total

DEST SERVICE SCHEDULE

1 12 120 1

Town of Acton, Massachusetts

	ISSUE PURPOSE School Project REFUNDING (outsi				k Fiscal A	fylmory Re	rvices
				v.s. p			
ISSUE TYPE Ger		on Bond	REGISTRAR				
EXEMPT Yes			LEGAL OPINION				
BANK QUALIFIED No	-		PURCHASER				
STATE QUALIFIED No			INSURER				
SELP-SUPPORTING No			CUSIP NUMBER				
Otto:-2012044184			Adola Monmor (2)				
0	Principal	Principal	Interest	Principal	Coupon	Call	Quaip
Date	Balance	Payment	Payment	& <u>Interest</u>	Rate	Price	Number
09/05/13 1	2,220,000.00				•	•	
02/01/14 1:	1,110,000.00	1,110,000.00	164,615,00 4	1,274,615.00	2,0000	HA	LWS
08/01/14	1,110,000.00	0.00	191,850.00	191,850.00			
02/01/15	9,960,000.00	1,150,000.00	191,050.00	1,341,050.00	2.0000	NA	LX7
08/01/15	9,960,000.00	0.00	180, 350.00	180,150.00			
02/61/16	8,610,000.00	1,150,000.00	110,350.00	1,350,350.00	3.0000	NA	LYS
08/01/16	8,810,000.00	0.00	163,100.00	163,100.00			
02/01/17	7,655,000.00	1,155,000.00	163,100,00	1,318,100.00	4.0000	NA	LZ2
08/01/17	7,655,080.00	0.00	145,000.00	140,000.00			
02/01/18	6,460,000.00	1,195,000.00	140,000.00	1,335,000.00	4.0000	NA	нле
09/01/15	6,460,989.00	0.00	116,100,00	116,100,00		r	
07/01/19	5,220,000.00	1,240,000.00	116,100.00	1,356,100.00	4.0000	NA	HB4
08/01/19	5,220,000.00	4.00	\$1,100.00	91,300.00			
•	3,940,000.00	1,280,000.00	91,300.00	1,371,300.00	4.0000	NA	MC2
09/01/20	3,940,000.00	0.00	65,700.00	65,700.00			
02/01/21	2,620,000.00	1,320,000.00	65,700.00	1,385,700.00	4,0000	NUA,	HE0
09/01/21	2,620,000.00	9.00	39,300,00	39,300.00			
• •	1,300,000.00	1,320,000.00	39,300.00	1,359,300.00	3.0000	NA	MEB
· · · ·	1,300,000.00	0.00	19,500.00	19,500.00			
02/01/23	0.00	1,300,000.00	19,500.00	1,319,500.00	3.0000	N/A.	HES

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2,179,015.00 14,399,015.00

12,220,000,00

Copyright Lane & Company 2013

06-17-2010

DEST SERVICE SCHEDULE

Town of Auton, Massachusetts .

ISSUE FURPOSE ... Building Remodeling - School (inside the debt limit)

ISSUE AMOUNT ... \$ B51,805.00 FINANCIAL ADVISOR ... UniBank Fiscal Advisory Services

ISSUE TYPE ... Def/15/10 PAYING AGENT ... U.S. Bank National Association

ISSUE TYPE ... General Obligation Bond REGISTRAR ... The Depository Trust

EXEMPT ... NO Edwards Angell Palmer & Dodge

BANK QUALIFIED ... Yes FURCHASER ... Robert W. Baird

STATE QUALIFIED ... NO INSURER ... (none)

SELF-SUPPORTING ... NO CUSIP NUMBER ... 005068

	Principal	Principal	Interest	Principal	Coupon	Ca11	Cusip
Date	Balance	Payment	Payment	4 Interest	Rate	Price	Number
08/15/10 \$	B51,805.00	ş	\$	\$			
12/15/10	851,805.00	0.00	10,895,55 #	, 10,895.55			
06/15/11	785,000.00	66,803.00	10,895.55	77,700.55	2.0000	NA.	XR1
12/15/11	785,000.00	0.05	10,327.50	10,227.50			
06/15/122	720,000.00	€5,000.00	10,227.509	75,227.50	2,0000	NA	KS9
12/15/12	720,000.00	0.00	9,577.50	9,577.50			
06/15/13	650,000.00	60,000.00	9,577.50	69,577,50	2.0000	NA	K77
13/15/13	650,000.00	9.00	8,977.50	8,977.50			
06/15/14	600,000.00	60,000,00	1,977,50	65, 977_50	2.0000	87A	KU14
12/15/14	600,000,00	9.95	8,377.50	8,377.50			
06/15/15	540,000.00	60,000.00	0,377.50 /	68,377.50	2.0000	NA.	XV2
12/15/15	540,000.00	9.00	7,777.50	7,777.50			
06/15/16	480,000.00	60,000.00	7,777.50	67,777.50	2.0000	NA	KWQ
12/15/16	480,000.00	9,00	7,177.50	7,177,50			
06/19/17	420,000.00	60,000.00	7,177.50	67,177.50	2.2500	NA	lota
12/15/17	420,000.00	0.00	6,502.50	6,502.50			
06/15/18	- 350,000.00	\$0,000.00	6,502.50	66,502.50	3.0000	NA	KY6
12/15/18	360,000.00	9.00	5,602.50\	5,602.50			
06/15/19	300,000,00	60,000.00	5,602.50)	65,602.50	3,6000	100.0000	K23
12/15/19	300,000,00	0.00	1,702,50	4,702.50			
06/15/20	240,000.00	60,000.00	4,702.50	64,702.50	3.0000	100.0000	LAT
12/15/20	240,000,00	0.00	3,802.507	3,802.50			
06/15/21	180,000.00	60,000.00	3,802,50~)	63,802.50	2,0000	100.0000	LBS
12/15/21 ,,,	180,000.00	0.00	2,902.50)	2,902.50			
06/15/22	120,000.00	60,000.00	2,902.50 /	61,502.50	3,1250	100.0000	1,03
12/15/22	120,000.00	. 0.90	1,965.09)	1,965.00			
06/15/23	60,000.00	60,000.00	1,965.00 }	61,965.00	3.3500	100.0000	LDI
12/15/23 ,	60,000,00	0.00	990.00}	990,00			
06/15/24	0.00	60,000,00	990.00	50,990.00	3.3000	100.0000	LES
Total	4 5	\$ B51,805.00	\$ 178,956.10	8 1,030,761.10			

Copyright Lane & Company 2010

(d)

175

291170

UniBank Fiscal Advisory Services, Inc.

UmBany>

MUNICIPALITY:

Town of Acton

John Murray, III, Treasurer

472 Main Street Acton, MA 01720

PURPOSE:

Serial State House Note - School Repairs

ISSUE DATED:

February 1, 2005

COUPON RATE:

4.40%

Payable at the Town of Acton

Jord Shoof on Sologo

DRITE CHECK

PAYMENT	PRINCIPAL	PRINCIPAL	INTEREST	PRINCIPAL &
DATE	BALANCE	PAYMENT	PAYMENT	Interest
02/01/05	\$136,000.00			वर्द
08-01-05-11-0	TO SECTION OF BUILDING		1,000,00	32.092.00-1
OPERTY DETERMINE	THE PERSON NAMED IN COLUMN TWO	True participal constraint		16,592.00
08/01/06	122,400.00	0.00	2,692.80	2,692.80
_ 02/01/07	108,800.00	13,600.00	2,692.80	16,292.80
08/01/07	108,800.00	0.00	2,393.60	2,393.60
02/01/08	95,200,00	13,600.00	2,393.60	15,993.60
The second second	With the last time		2.024.40	2,094.40
			2 0447	# 44-151694.40
08/01/09	81,600.00	0.00	1,795.20	17932034
02/01/10	6 8, 000,00	13,600.00	1,795.20	15,395.20
08/01/10	68,000.00	0.00	1,496.00	1,496.00
02/01/11	54,400.00	13,600.00 ✓	1,496.00	15,096.00
08/01/11	54,400.00	0.00	1,196.80	1,196,80
02/01/12	40,800.00	13,600.00 ✓	1,196.80 V	14,796.80
08/01/12	40,800.00	0.00 /	897.60 🋂 🕆	897.60
02/01/13	27,200.00	13,600.00	13 897.60 V	14,497.60
08/01/13	27,200.00	0.00	598.40	598.40
02/01/14	13,600.00	13,600.00	f 598.40	14,198.40
08/01/14	13,600.00	0.00	299.20	299.20
02/01/15	0,00	13,600.00	<i>IS</i> 299.20	13,899.20
TOTAL		\$136,000,00	\$32,912.00	\$168,912.00

This notice is to remind you that we should be provided with good funds on or before the due date. All funds must be received by 12:00 p.m. In the event that your check has been forwarded or you have authorized us to charge your account, please disregard this reminder. If you have any questions, please call the Financial Advisory Office at 1-(800)-678-1635.

Town of Acton Sealing 18995. Sc. J. Remodeling Bonds: 300,000 Esuance Date November 1, 2004

Town of Acton

Maturity: November 1, 2014

Иате:

19.635.72 + 16.400.60 -3.235.72 *

Address:	472 Main Street, Acton, M	set, Acton, MA	IA 01720											
Grightal Amount of Bonds			i,		,									
164.044.50	Year	2002	2004	2007	2004	2002	2810	2011	2002		784.7	1000	TOCA	-
	Interest Rates	1637	1.83%	2,13%	7777	278%	344%	į		*** 100 200				ANFR
		interest.	Perest .	Ŀ	L	Ι.	1	1	Interes	Incres		(recress		Ī
AND CALLES OF THE PARTY OF THE	AND THE PERSON NAMED IN COLUMN		Hite Total Dat	Rate Total Doc	Rade Total Day	Rate Total Due : Rate	Rate Total Due	Rafe Total Cor-	Rate Total Dog	7	Total Due	Rate, 1	TOUR DAY TO	Total Paytack
November 1, 2005 ₹	otrooping) s	14,000 to 1,52% \$ 257.22	1.01% 5 270.84	213K 2 241Z	2.72% \$ 396.80	278% \$ 45682 3119, 5		510 full 1774, 5, 528.7	THE COLD AND COLD	5.5	1 6 646 AT	300		
November 1, 2006	147,600 00	tului er	1.81% S. 295.84	213% \$ 34832	306.84	278% \$ 48502							2 1	
November 1, 2007	20,20000			OF WAY			\$40.04		1 200					
November 1, 2008	114,000,00		•				26	1716 6	3 200				2 17 17 17	
November 1, 2009	2 50-400 00								****				2	
November 1, 2010	4	THE STATE OF				****		× 400		397.00 DETEC				10.015.72
Nonether Cont.			-				3,11% \$ 510.04	177	52972 3.40% \$ 5	557.50 3.57% \$	1 S 545-62	101	2000	19,179.80
Muvelliuca 1, 2011	\$ 66,600.00		100000000000000000000000000000000000000	1			·	323% \$ 452.72	3.40% 5	557.50 3.67% 5	5 5 44548	3 550	10000	12 665 78
TION I TO THE	46.230.00	i disar						The state of the s	3.40%	657 60 3.57	3.57% \$ 543.45	*	S 555	18 14004
November 1, 2013.	\$ 32,000.00		•			-		-1.tariba		E F	2.27% S 539.45	355.5	5000	17.582.64
November 1, 2014	18,400.00		- Constant		5		1	-				3.6%	566-90	
Totals	S 164 day big	1 200	\$ 59101	\$ 1,047.00	\$ 1,547.52	\$ 2275.00	\$ 3,000.24	\$ 3,748.04	92 OFF \$ #	98 03	2 5.703.3	- West (1990)	\$ 594050 \$ 197244.08	197.244.00
Total hierest	\$ 24,245													
Ford P. C.	\$ 192,244,08													

Merchant Total paybor

\$0'946'07 < \$ 16,400. -

PRINCIPA - SILME(P)

DAMMENT

5002/1/11

Interest - Surk (3)

30.345.6

Exhibit K

ASSIGNMENT AND ASSUMPTION OF OPERATING AGREEMENTS

THIS ASSIGNMENT AND ASSUMPTION OF OPERATING AGREEMENTS ("Assignment") is made and entered into as of, 2014 by and between the Town of Acton, a Massachusetts municipality, ("Assignor"), and Acton-Boxborough Regional School District, a Massachusetts regional school district ("Assignee").
RECITALS
A. Assignor and Assignee have entered into that certain Intermunicipal Agreement dated as of, 2014 (the " <u>Intermunicipal Agreement</u> ") with respect to, among other things, the transfer of the School Property.
B. The Assignor is a party to those certain operating agreements relating to the School Properties and identified on Exhibit 1 attached hereto, copies of which are attached and incorporated herein by reference (collectively, the "Operating Agreements"); and
C. Sections 9.B.1.a and 9.B.2.c of the Intermunicipal Agreement requires Assignor and Assignee to execute this Assignment.
NOW THEREFORE for good and valuable consideration, the receipt and sufficiency

1. <u>Definitions</u>. All capitalized terms used but not otherwise defined herein shall have the respective meanings provided therefor in the Intermunicipal Agreement.

of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

2. <u>Assignment and Assumption</u>. From and after the date hereof and for the remainder of the term of each of the Operating Agreements, the Assignor hereby irrevocably assigns, sets over, transfers, grants, bargains and conveys to Assignee all of Assignor's right, title and interest in and to the Operating Agreements. Assignee hereby expressly assumes for itself and its successors, assigns and legal representatives, the Operating Agreements and all of the rights, obligations and liabilities of Assignor thereunder to the extent first accruing and arising on or after the date hereof and (a) agrees to be fully bound by all of the terms, covenants, agreements, provisions, conditions, obligations and liabilities of Assignor thereunder that first accrue and arise on or after the date hereof, and (b) keep, perform and observe all of the covenants and conditions contained therein on the part of Assignor to be kept, performed and observed, from and after the date hereof.

3. General Provisions.

- a. <u>Successors</u>. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.
- b. <u>Counterparts</u>. This Assignment may be executed in as many counterparts as may be deemed necessary and convenient, and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same instrument.
- c. <u>Governing Law</u>. This Assignment and the legal relations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to its principles of conflicts of law.
- d. No Representation or Warranty. EXCEPT AS OTHERWISE PROVIDED HEREIN OR IN THE INTERMUNICIPAL AGREEMENT, ASSIGNOR DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER IN CONNECTION WITH THIS ASSIGNMENT AND THE OPERATING AGREEMENTS.

[Signatures on next page]

IN WITNESS WHEREOF, this Assignment was made and executed as of the date first above written.

ASSIGNEE: ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT	ASSIGNOR: TOWN OF ACTON
By its Regional School District Committee	By its Board of Selectmen
Name: Title: Chair Duly authorized by vote of the Regional District School Committee dated and attached hereto	Name: Title: Chair Duly authorized by vote of the Board of Selectmen dated and attached hereto [And by the Acton School Committee]
	Name: Title: Chair Duly authorized by vote of the Acton School Committee dated and attached hereto]

Exhibit K-1
List of Operating Agreements
(District to Provide List)

Exhibit L BILL OF SALE AND ASSIGNMENT

The district of the section of the section of

THIS BILL OF SALE AND ASSIGNMENT ("Bill of Sale") is made as of ______, 2014 between the Town of Acton, a Massachusetts municipality, ("Seller"), and Acton-Boxborough Regional School District, a Massachusetts regional school district ("Buyer").

RECITALS

- A. Seller is the owner of that certain real property located in the Town of Acton, County of Middlesex, Commonwealth of Massachusetts (the "Real Property"), as more particularly described in the Intermunicipal Agreement (as such term is defined herein).
- B. Seller and Buyer have entered into that certain Intermunicipal Agreement dated as of ______, 2014 (the "Intermunicipal Agreement") with respect to, among other things, the transfer of the Real Property as well as the "Personal Property," the "Intangible Property" and certain other property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer hereby agree as follows:

- Unless the context otherwise requires, all capitalized terms used but not otherwise defined herein shall have the respective meanings provided therefor in the Intermunicipal Agreement.
- 2. Seller does hereby unconditionally, absolutely, and irrevocably grant, bargain, sell, transfer, assign, convey, set over and deliver unto Buyer all of Seller's right, title and interest in and to the Personal Property and the Intangible Property (collectively, the "Property").
- 3. Seller represents that it is the sole owner of the Property and that the same is free and clear of all liens, mortgages, pledges, security interests, prior assignments and encumbrances.
- 4. This Bill of Sale shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.
- 5. This Bill of Sale and the legal relations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to its principles of conflicts of laws.

[Signatures on next page]

IN WITNESS WHEREOF, this Bill of Sale was made and executed as of the date first above written.

BUYER: ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT	SELLER: TOWN OF ACTON
By its Regional School District Committee	By its Board of Selectmen
Name: Title: Chair Duly authorized by vote of the Regional District School Committee dated and attached hereto	Name: Title: Chair Duly authorized by vote of the Board of Selectmen dated and attached hereto
	And by the Acton School Committee
	Name: Title: Chair Duly authorized by vote of the Acton School Committee dated and attached hereto

Exhibit M

Sewer Betterment Assessment Amortization Schedule (to be attached)

Town of Acton 6/30/2010

													Bal 6/30/11	Bal 6/30/12	Bal·6/30/13	Bal 6/30/14																	
	gh Regional	payment	214,500.00	143,208.00	143,207.99	143,052.00	143,052.00	143,052.00	143,052.00	143,052.00	142,999.98	142,999,99	142,999.99	142,999.99	142,999.99	142,999.99	142,999.98	142,999.99	142,999.99	142,999.99	142,999.99	142,999.98	142,999.99	142,999.99	142,999.99	142,999.99	142,999.98	142,999.99	142,999.99	142,999.99	142,999.99	70,824.26	
78%	Acton-Boxborough Regional	balance	4,290,000.00	4,075,500.00	3,932,292.00	3,789,084.01	3,646,032,01	3,502,980.01	3,359,928.01	3,216,876.01	3,073,824.01	2,930,824.03	2,787,824.04	2,644,824.05	2,501,824.06	2,358,824.07	2,215,824.08	2,072,824.10	1,929,824.11	1,786,824.12	1,643,824.13	1,500,824.14	1,357,824.16	1,214,824.17	1,071,824.18	928,824.19	785,824,20	642,824.22	499,824.23	356,824.24	213,824,25	70,824.26	0.00
	School	payment	60,500.00	40,392.00	40,392.00	40,348.00	40,348.00	40,348.00	40,348.00	40,348.00	40,333,33	40,333.33	40,333.33	40,333.33	40,333,33	40,333.33	. 40,333.33	40,333,33	40,333,33	40,333,33	40,333.33	40,333.33	40,333,33	40,333,33	40,333,33	40,333.33	40,333,33	40,333.33	40,333.33	40,333.33	40,333,33	19,976,07	
22%	Acton Public School	Beginning balance	1,210,000.00	1,149,500.00	1,109,108.00	1,068,716.00	1,028,368.00	988,020.00	947,672.00	907,324.00	866,976.00	826,642.67	786,309.34	745,976.01	705,642.68	665,309.35	624,976.02	584,642.69	544,309.36	503,976.03	463,642.70	423,309.37	382,976.04	342,642.71	302,309.38	261,976.05	221,642.72	181,309.39	140,976.06	100,642.73	60,309,40	19,976.07	00.00
	70	payment	275,000.00	183,600.00	183,599,99	183,400.00	183,400.00	183,400.00	183,400.00	183,400.00	183,333.31	183,333.32	183,333.32	183,333.32	183,333.32	183,333,32	183,333.31	183,333.32	183,333,32	183,333,32	183,333,32	183,333,31	183,333,32	183,333,32	183,333,32	183,333.32	183,333.31	183,333.32	183,333.32	183,333.32	183,333.32	90,800,33	
100%	School	balance	5,500,000.00	5,225,000.00	5,041,400.00	4,857,800.01	4,674,400.01	4,491,000.01	4,307,600.01	4,124,200.01	3,940,800.01	3,757,466.70	3,574,133.38	3,390,800.06	3,207,466.74	3,024,133.42	2,840,800.10	2,657,466.79	2,474,133.47	2,290,800.15	2,107,466.83	1,924,133.51	1,740,800.20	1,557,466.88	1,374,133.56	1,190,800.24	1,007,466.92	824,133.61	640,800.29	457,466.97	274,133.65	90,800.33	0.00
			FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27	FY28	FY29	FY30		

Exhibit N

Agreement with Nexamp Capital PUB I, LLC (to be attached)

Execution Version

COMMERCIAL POWER PURCHASE AGREEMENT

by and between

Nexamp Capital PUB 1, LLC and

Acton Public Schools

Dated February 4, 2010

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COMMERCIAL POWER PURCHASE AGREEMENT COVER SHEET

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

Party A, as seller:	Party B, as customer:
Nexamp Capital PUB 1, LLC,	Acton Public Schools, a political subdivision of the
a Delaware limited liability company ("Nexamp")	Commonwealth of Massachusetts (the "Host")
Contact:	Contact:
	Acton Public School District
c/o Nexamp, Inc.	District Central Office
21 High Street, Suite 209	16 Charter Road
North Andover, MA 01845	Acton, MA 01720
Attn: President and COO	Phone: (978) 264,4700
Phone: (978) 688-2700	Fax: (978) 264.334
Fax: (978) 416-2525	IIti — Pou modit hypings
	Host is a:
	□ Not-for-profit entity
	x Governmental entity
Site Location:	System Descriptions: (See Exhibit C for more detail.)
Douglas Elementary School	Panel Manufacturer: Evergreen Solar or Kyocera Solar
21 Elm Street	Capacity: Maximum of 103.73 kW DC
Acton, MA	Mounting: Roof Mounted with Panel Claw
	Inverter Manufacturer: Solectria Renewables
(See Exhibit A for more detail.)	
Pricing:	<u>Duration</u> :
Initial Nexamp kWh Rate: \$.069	Date of Agreement: February 4, 2010 ("Effective Date")
Escalation Percentage: 0%	
(See Exhibit B for more detail.)	Commercial Operation Date: TBD
	Term: Initial Term: 20 years from the System's
	Commercial Operation Date; with one 5 year Extension
	Term, subject to Applicable Law governing contract
•	extensions.

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

RECITALS:

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

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

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

AGREEMENT

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

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

Terms and Conditions
Exhibit A, Description of Site
Exhibit B, Nexamp kWh Rate
Exhibit C, Description of System

Exhibit D, Early Termination Price Schedule Exhibit E, REC Purchase Option Pricing Exhibit F, Guaranteed Production Exhibit G, Nexamp Proposal and Amendment

- 2. This Agreement constitutes the entire agreement and understanding between Nexamp and Host with respect to the subject matter hereof and supersedes all prior agreements between them relating to the subject matter hereof, which are hereafter of no further force or effect. The Terms and Conditions and the Exhibits, and the Proposal submitted by Nexamp to the Town of Acton on or about September 14, 2009, as amended on or about September 29, 2009 (attached hereto as Exhibit G), referred to herein are integral parts hereof and are made a part of this Agreement by reference. In the event of a conflict between the provisions of this Agreement and those of any Exhibit or the Proposal, the provisions of this Agreement shall prevail over the terms of the Proposal or Exhibit and any Exhibit shall be corrected accordingly if inconsistent with this Agreement.
- 3. This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of Host and Nexamp; <u>provided</u>, that Nexamp may unilaterally amend <u>Exhibit C</u> to include the Final Drawings.
- 4. This Agreement shall be governed by, and construed and enforced in accordance with, the substantive laws of The Commonwealth of Massachusetts without reference to its principles of conflicts of laws.
- 5. The relationship between Nexamp and Host shall not be that of partners, agents, or joint venturers, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. Nexamp and Host, in performing any of their obligations hereunder, shall be independent contractors and shall discharge their contractual obligations at their own risk. Neither Party has the right to create an obligation for the other Party.
- 6. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. Facsimile transmission of executed copies or signature pages for this Agreement shall be legal, valid and binding execution and delivery for all purposes.

[Signatures, Terms and Conditions and Exhibits Follow.]

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

Nexamp Capital PUB 1, LLC
a Delaware limited liability company

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

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

Ву:

Name: Daniel Leary
Title: President and COO

Acton Public Schools, a political subdivision of the Commonwealth of Massachusetts

Name Title:

Douglas Elementary School Power Purchase Agreement

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

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

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

"Applicable Law" means any present and future law, act, rule, requirement, order, by-law, ordinance, regulation, judgment, decree or injunction of or by any Governmental Authority, ordinary or extraordinary, foreseen or unforeseen, which may at any time be applicable to the Site, the License Area or the System, as applicable, or any part thereof or to any condition or use thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"RECs" means renewable energy credits.

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

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

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

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

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

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

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

Exhibit B.

,

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

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

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

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

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

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

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

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

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

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

- 2.1 Term. The term of this Agreement (the "Term") shall commence on the Effective Date and, unless terminated earlier pursuant to an Early Termination, continue until the twentieth (20th) anniversary of the Commercial Operation Date of the first System installed under this Agreement (the ("Initial Term") and may be renewed for an additional five (5) year extension term through the twenty-fifth (25th) anniversary of the Commercial Operation Date of the first System installed under this Agreement (the "Extension Term") upon the mutual agreement of the parties not later than ninety (90) days before the end of the Initial Term; provided that the parties shall cooperate with one another sufficiently in advance to take such steps as may be necessary for the approval of such Extension Term in accordance with Applicable Law. The end of the Extension Term, and if not renewed, the end of the Initial Term shall be referred to as the "Expiration Date".
 - System Purchase Option: Termination for Convenience. Host may purchase the System and terminate this Agreement for convenience at any time after the sixth (6th) anniversary of the Commercial Operation Date of the System installed under this Agreement as set forth in Section 5:4(c) upon at least sixty (60) days' prior written notice to Nexamp; provided, that upon such termination Host shall pay Nexamp the applicable Early Termination Price. Prior to exercising its rights under this section, Host and its agents shall be permitted to inspect the System and all records relating to operation, maintenance and warranties applicable to the System. During the Term, Host shall only have five (5) options to purchase the System under this Section 2.2. Upon the payment of the Early Termination Price in accordance with this Section and execution and delivery by Nexamp to Host of a bill of sale for the System, (a) title to the System shall pass to Host, free and clear of any liens and encumbrances, and without warranties of any kind except as to title, (b) the remaining period on all third party warranties for the System, and the remaining term of all third party contracts regarding monitoring, operations and/or maintenance of the System, in each case to the extent transferable, will be transferred to Host (c) as between Nexamp and the Host, all right, title and interest in and to the Environmental Attributes related to the System arising on and after such date of payment shall accrue to the benefit of or vest in the Host or, if applicable, Nexamp shall assign to Host rights under any forward sale contract related to such Environmental Attributes as may be in effect as of the date of such payment, if any, but in any case Nexamp shall execute and deliver to Host such

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

- Termination Due To Transfer of Title by Host. If prior to end of the Term, Host sells, assigns or transfers, whether by operation of law or otherwise, all or any portion of its interest in the Site (a "Transfer of Title") without the prior written consent of Nexamp, which consent shall not be unreasonably withheld, then Host shall pay the Early Termination Price. Host hereby covenants to Nexamp that it will provide notice to Nexamp at least sixty (60) days prior to a Transfer of Title. Upon Host's payment of the Barly Termination Price to Nexamp pursuant to this Section, which payment shall be made at least thirty (30) days prior to a Transfer of Title: (a) title to the System shall pass to Host, free and clear of any liens and encumbrances, and without warranties of any kind except as to title, (b) the remaining period on all third party warranties for the System, and the remaining term of all third party contracts regarding monitoring, operations and/or maintenance of the System, in each case to the extent transferable, will be transferred to Host, (c) as between Nexamp and the Host, all right, title and interest in and to the Environmental Attributes related to the System arising on and after such date of payment shall accrue to the benefit of or vest in the Host or, if applicable, Nexamp shall assign to Host rights under any forward sale contract related to such Environmental Attributes as may be in effect as of the date of such payment, if any, but in any case Nexamp shall execute and deliver to Host such documentation as may be commercially reasonable to effect such transfer or assignment and (d) this Agreement shall terminate; provided, that, with respect to the System, the Host and the System shall remain subject to the MTC Obligations until the twentieth (20th) anniversary of the Commercial Operation Date of the System.
- Purchase Option Upon Expiration. Host may purchase the System on the Expiration Date, if the Agreement is still in effect on such date, at the System' fair market value on an installed and running, or going-concern basis, as determined pursuant to this Section (the "Fair Market Value"); provided, that there is no Host Default occurring at such time. Host shall provide written notice to Nexamp of Host's intent to exercise this purchase option, exercisable on the Expiration Date, not less than ninety (90) days prior to the Expiration Date (or else the option shall automatically expire). Prior to exercising its rights under this section, Host and its agents shall be permitted to inspect the System and all records relating to operation, maintenance and warranties applicable to the System. Upon Host's payment of the Fair Market Value to Nexamp pursuant to this Section and Nexamp's execution and delivery to Host of a bill of sale for the System: (a) title to the System shall pass to Host, free and clear of any liens and encumbrances, and without warranties of any kind except as to title, (b) the remaining period on all third party warranties for the System, to the extent transferable, will be transferred to Host, (c) as between Nexamp and the Host, all right, title and interest in and to the Environmental Attributes related to the System arising on and after such date of payment shall accrue to the benefit of or vest in the Host or, if applicable, Nexamp shall assign to Host rights under any forward sale contract related to such Environmental Attributes as may be in effect as of the date of such payment, if any, but in any case Nexamp shall execute and deliver to Host such documentation as may be commercially reasonable to effect such transfer or assignment, and (d) this Agreement shall terminate. If the Fair Market Value has not been paid to Nexamp by the Expiration Date, then Nexamp shall retain title to the System and remove them from the Site pursuant to Section 2.5. If the Fair Market Value has not been determined by the Expiration Date, the Term shall be automatically extended until the date thirty (30) days after such determination has been made, on which date payment of the Fair Market Value to Nexamp shall be due, unless Nexamp consents to a further extension, or

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

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

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

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

- 2.6 <u>MTC Obligations.</u> Nexamp shall comply at all times with all MTC Obligations during System installation and thereafter for as long as it holds title to the System. If Host obtains title to the System hereunder pursuant to Section 2.2, 2.3 or Section 12, Host shall be obligated to MTC with respect to the System until the tenth (10th) anniversary of the Commercial Operation Date of the System as follows (collectively, the "<u>MTC Obligations</u>"):
 - (a) to repair and maintain the System in good operating condition;
 - (b) to keep the System connected to MTC's Production Tracking System;
 - (c) to honor the remaining term of all third party contracts regarding the sale of Environmental Attributes generated by or with respect to the System;
 - (d) to meet other reasonable requirements of MTC; and
 - (e) to notify MTC and Nexamp within three (3) business days of the failure to meet any of the foregoing requirements.

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

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

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

SECTION 3. CONDITIONS PRECEDENT TO NEXAMP OBLIGATIONS.

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

- 3.1 Site and Resource Evaluation. Nexamp shall have determined prior to the Commercial Operation Date, in its sole discretion, that the Site and resource conditions thereon are adequate for installation of the System and for Nexamp to meet its financial return thresholds, and the thresholds of its Financing Parties, with respect to the System, including Nexamp's review and approval of the condition of any replacement roof installed on the Site after the Effective Date and before the Commercial Operation Date. Subject to Section 5.1, if upgrades to the roof are required prior to the Commercial Operation Date in the reasonable opinion of a professional engineer employed by or contracted for by Nexamp, such repairs shall be conducted at the sole cost of Host; provided, that Host may terminate this Agreement with respect to the Site at any time before the commencement of installation activities at the Site if Host determines, acting reasonable, that the cost of such upgrades are not justified by the benefits it anticipates from installation of the System at the Site or if it reasonably concludes that installation of the System would void the warranty for the roof at the applicable License Area, provided further that the Parties may agree to amend the System specifications sufficient to accommodate the roof structure without repair.
- 3.2 <u>Financing</u>. Nexamp, or its Financing Party, if applicable, shall have secured and received financing for the Installation Work in the amount of the aggregate development and construction costs related thereto.
- 3.3 Governmental Approvals; Confirmation of Availability of Government
 Subsidies. Nexamp and its Financing Party, if applicable, shall have received all governmental
 permits and approvals necessary to construct and operate the System and received confirmation
 of availability of the cash grant available under Section 1603 of the American Recovery and
 Reinvestment Act of 2008 and the rebate available from the Massachusetts Renewable Energy
 Trust pursuant to its Commonwealth Solar program.

3.4 <u>INTENTIONALLY OMITTED</u>.

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

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

SECTION 4. LICENSE TO SITE.

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

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- 4.2 <u>Title to Site</u>. Host has good and clear record and marketable fee simple title to the Site free from all Liens.
- 4.3 Access to License Area by Host. Host reserves the right at all times and upon reasonable notice to Nexamp (except in the case of an emergency) to enter the License Area for any reason, including but not limited to: (a) inspect it; (b) show the License Area to prospective purchasers, tenants or licensees, or to prospective mortgagees, ground or underlying lessors or insurers; (c) post notices of non-responsibility; or (d) without disturbing the System in any fashion, alter, improve or repair the License Area or any building on the Site, or for structural alterations, repairs or improvements to the Site's System and equipment other than the System

itself. Any entry into the License Area by Host shall not be deemed to be a forcible or unlawful entry into, or a detainer of, the License Area, or an entry in violation of this Agreement.

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

- Scope of Installation Work. Nexamp shall furnish all labor, materials and equipment to perform the Installation Work, all in accordance with Applicable Law, applicable vendors' and manufacturers' warranties, instructions and specifications, and applicable insurance requirements. Nexamp will cause the System to be designed, engineered, installed and constructed in accordance with the Final Drawings, Applicable Law and the terms of this Agreement, Nexamp shall perform the Installation Work in accordance with a good and workmanlike manner using only new materials and without causing material damage to any roof on the Site. The System shall have the maximum capacity indicated on the Cover Sheet. The actual size of the System shall be determined in Nexamp's sole discretion but in consultation with Host and dependent on the characteristics of the Site and the relocation of roof vents to be completed by Host during its re-roofing at the Site and trimming of trees on the south portion of the Site as identified by Nexamp. Nexamp shall use its commercially reasonable efforts to maximize the capacity of the System to approximate as nearly as possible the maximum capacity indicated on the Cover Sheet based on its review of the space available on the roofs at the Site. Host shall have the right to review all engineering evaluations of the impact of the System on the structural integrity and strength of the roof(s) of the License Area and to approve all construction plans for the System, which approval shall not be unreasonably withheld, delayed or conditioned. Host shall respond to Nexamp within ten (10) days of any request for approval hereunder. Host's failure to respond shall be deemed to be an approval. If Host does not consent to Nexamp's request for approval, Host shall describe in reasonable detail the basis upon which it is denying such approval. After completion of the Installation Work, Nexamp shall not modify the System in a manner contradictory to the Final Drawings applicable to the System without the consent of Host, which consent shall not be unreasonably withheld, conditioned or delayed. During the Term of this Agreement, Nexamp shall comply with obligations imposed on an "Installer" under the Commonwealth Solar Initiative.
- 5.2 Performance of Installation Work. Nexamp may perform Installation Work at the Site between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, unless otherwise limited by local ordinance, and shall seek to do so in reasonable coordination with the Host and in a manner which limits inconvenience to and interference with Host's and Host's invitees' and employees' use of the Site as is commercially practical. Nexamp shall grant Host and its authorized representatives access to and the right, but not the obligation, to observe the Installation Work at all times provided that neither Host nor its authorized representatives shall interfere with the Installation Work or use or move any Nexamp equipment or any System without written authorization from Nexamp. As requested by Nexamp for performance of the Installation Work, Host shall provide blueprints of the Site and relevant facilities thereon, available roof load data and engineering diagrams of the Site as available to Host.
- 5.3 <u>Utility Interconnection</u>. Nexamp agrees to manage application for all necessary approvals and permits from any Governmental Authority and the Local Distribution Company, including the submission of applications for interconnection of the System with the Local Distribution Company; <u>provided</u>, that Host agrees to cooperate with Nexamp in preparing such applications and securing such approvals by, among other things, providing Nexamp with required data and electrical drawings concerning the Site necessary for the interconnection application process. Should the Local Distribution Company fail to approve the interconnection of the System within one hundred twenty (120) days of submission, Nexamp may terminate this

Agreement with respect to the System promptly by providing a written termination notice to Host. Should the Local Distribution Company require equipment in addition to that shown in Exhibit C, Nexamp may either terminate this Agreement or increase the Nexamp kWh Rate, in either case by providing written notice to Host. Host may elect, within ten (10) days of receipt of notice from Nexamp increasing the Nexamp kWh Rate, to terminate the Agreement with respect to the System by providing written notice to Nexamp to that effect.

5.4 System Acceptance Test.

- (a) Nexamp shall, at no cost to Host, test the System (with respect to the System, a "System Acceptance Test") to confirm that the System (i) is capable of delivering Solar Services in accordance with the operational requirements that Nexamp shall develop and provide to Host (the "System Requirements") and (ii) meets all requirements established by the Local Distribution Company and any Applicable Law. Nexamp shall notify Host not less than three (3) days prior to the conducting of System Acceptance Test and Host shall have the right, but not the obligation, to be present at and observe the System Acceptance Test, at no cost to Nexamp.
- (b) If the results of the System Acceptance Test indicate that the System is capable of delivering electricity generated by the System to Host for four (4) continuous hours using such instruments and meters as have been installed for such purposes and the System has been approved for interconnected operation by the Local Distribution Company, then Nexamp shall send a written notice to that effect to Host (a "Completion Notice"), accompanied by a copy of the results of the System Acceptance Test.
- (c) The "<u>Commercial Operation Date</u>" of the System shall be the tenth (10th) day after the date of Host's receipt of a Completion Notice for the System.

SECTION 6. OPERATION AND MAINTENANCE WORK.

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

6.2 <u>Malfunctions</u>.

(a) Host and Nexamp each shall notify the other within twenty-four (24) hours following its discovery of any material malfunction in the operation of the System (a "Malfunction"), including any interruption in the supply of Solar Services. Nexamp and Host each shall notify the other Party upon the discovery of an emergency condition in the System. If an emergency condition exists, Nexamp shall promptly dispatch the appropriate personnel to perform the necessary repairs or corrective action in an expeditious and safe manner. Nexamp shall designate personnel and establish procedures

such that Host may provide notice of such conditions requiring Nexamp's repair at all times, twenty-four (24) hours per day, including weekends and holidays.

- (b) Nexamp shall commence repairs to a Malfunction and restore the supply of Solar Services as soon as reasonably possible after any notice received from Host thereof or upon its own discovery of any such Malfunction; provided, that Nexamp shall not have the obligation to repair any Malfunction caused by a casualty loss to the License Area, including a casualty loss caused by theft or vandalism, unless insurance proceeds available to Nexamp for such purpose are sufficient to repair such a Malfunction (it being acknowledged by Host that under certain circumstances Nexamp's Financing Parties, if any, may have discretion to determine whether Nexamp may apply such insurance proceeds to such repair work).
- (c) Nothing in Section 6.2 shall bar the Host or its employees or agents from taking any measure, although not obligated to do so, where immediate action is reasonably necessary, to prevent or mitigate an imminent risk of injury or harm to person or property on account of an emergency condition or hazard.
- (d) Nexamp shall further provide to Host a manual or such other documentation for the System that includes recommendations or instructions for the proper emergency shutdown of the System.

6.3 Metering.

- (a) Maintenance and Testing. Nexamp shall install and maintain the Meter for the System at its sole cost and expense. Nexamp shall maintain the calibration and operation of the Meter for the measurement of the electricity generated by the System and delivered to Host and, if applicable, for the calculations necessary to calculate the reduction in demand charges attributable to the System. Upon Host's written request based on its reasonable assertion that the Meter is functioning incorrectly and submitted not more frequently than annually, Nexamp shall test the Meter at its sole cost furnish a copy of metering and testing data for the System produced by the Meter. In addition, promptly following a written request from Host for a special test and calibration of the Meter, Nexamp shall cause a mutually acceptable qualified party to test the Meter in the presence of representatives of each Party, a report of which will be given to each Party. If Host requests such a test, Host shall bear the cost of testing, unless the Meter so tested is shown to be in error by more than one percent (1%), in which event Nexamp shall bear the cost of testing.
- (b) Adjustments. If testing of the Meter pursuant to Section 6.3(a) indicates that the Meter is in error by more than one percent (1%), then Nexamp shall promptly repair or replace the Meter. Nexamp shall make a corresponding adjustment to the records of the amount of Solar Services delivered based on such test results for: (i) the actual period of time when such error caused inaccurate Meter recordings, if that period can be determined to the mutual satisfaction of the Parties, or (ii) if such period cannot be so determined, then a period equal to one-half of the period from the later of the date of the last previous test confirming accurate metering or the date the relevant Meter(s) was/were placed into service, but not to exceed two (2) years.

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

SECTION 7. PURCHASE OF SOLAR SERVICES.

- 7.1 Purchase Requirement. Host agrees to purchase one hundred percent (100%) of the electricity produced by the System during the Term of this Agreement. The payment for Solar Services is calculated to include all of the above services in the Nexamp kWh Rate. Host agrees that, during the Term, Host will not select an electricity generation supplier under competitive procurement or otherwise, if any other option exists, that requires, as a condition for service, (a) removal or discontinued operation of the System, (b) imposition of additional charges on Nexamp or (c) the purchase from such provider of all electricity requirements for the Site, or with respect to the account of the Local Distribution Company for the Site. Host acknowledges that Nexamp is not, and that the provision of Solar Services hereunder shall not cause Nexamp to become, an electric utility, a generation company, an aggregator or supplier, an energy marketer or energy broker, as such terms are defined in the M.G.L.
- 7.2 <u>Title to Net Metering Credits</u>. As between Host and Nexamp, Host shall be entitled to receive any and all credits from the Local Distribution Company for electricity generated by the System and delivered to the Local Distribution Company.
- 7.3 <u>Title to Environmental Attributes</u>. Subject only to the Host's option pursuant to Section 7.4 to purchase from Nexamp RECs associated with generation of electricity from the System, and its acquisition of the System under Sections 2.2 to 2.4:
 - (a) As between Host and Nexamp, (a) all Environmental Attributes relating to the System or the sale of electricity therefrom will be and remain property of Nexamp, (b) Nexamp shall have all right, title and interest in and to any and all Environmental Attributes that relate to the electricity generated by the System during the Term, and (c) Host shall have no right, title or interest in or to any such Environmental Attributes.
 - (b) Host shall not report or otherwise communicate to any Person that any Environmental Attribute relating to the electricity generated by the System belong to any Person other than Nexamp.
 - (c) At Nexamp's request and expense, Host shall execute all such documents and instruments reasonably necessary or desirable to effect or evidence Nexamp's right, title and interest in and to the Environmental Attributes relating to the electricity generated by the System. If the standards used to qualify the Environmental Attributes to which Nexamp is entitled hereunder are changed or modified, Host shall at Nexamp's request and expense use all commercially reasonable efforts to cause the Environmental Attributes to comply with new standards as changed or modified.

- 7.4 Host Option to Purchase RECs. Nexamp hereby grants Host the option to purchase RECs associated with the generation of electricity by the System during the Term of this Agreement, pursuant to the terms of this Section 7.4. At any time on or before the date that is eighteen (18) months after the Effective Date, Host may notify Nexamp in writing of its exercise of its option to purchase all of the RECs associated with the generation of electricity by the System during the remainder of the Term following the date of Host's delivery of such written notice. Within sixty (60) days of Nexamp's receipt of such written notice, Nexamp will deliver to Host documentation sufficient to effect the forward sale to Host of RECs associated with the actual electric generation of the System on a unit contingent basis for the remainder of the Term of this Agreement, with such pricing and as set forth on Exhibit F and with no other representations or warranties except as to title. Nexamp and Host agree to cooperate with one another in exchanging information and establishing such accounts as may be necessary or commercially advisable to conform to the rules of NEPOOL or any Governmental Authority as applied to RECs and accounting for transactions in RECs and, to the extent practicable, to use the NEPOOL GIS system in connection with transactions for such RECs.
- System' Production Guaranty. Nexamp hereby guarantees to Host that the actual aggregate production in kWh from the System for each of the four-Contract Year periods set forth on Exhibit G will meet or exceed the predicted aggregate production amount set forth for such group of four Contract Years. Within thirty (30) days of the end of each applicable four Contract Year period set forth on Exhibit G, Nexamp shall, at its sole option, either pay to Host or apply as a credit to Host's next twelve (12) monthly statements in equal portions, a dollar amount for each kWh of shortfall in production equal to the product of the amount set forth in the column labeled "Avoided Cost" on Exhibit G applicable to such four Contract Year Period multiplied by the positive difference in kWh, if any, between the actual aggregate production of the System during such four Contract Year period subtracted from the predicted aggregate production during such four Contract Year period. In any four-Contract Year period during which Host has elected to repair or replace the roof at the License Area and Nexamp has temporarily disassembled or removed the System in accordance with Section 9.1(e), any production shortfall shall be reduced by the estimated amount of kWh that would have been produced on each day in which production was curtailed on account thereof, such estimate to be based on available production and solar radiation data available for such days from solar photovoltaic System located not more than one hundred (100) miles from the System.
- Prepayments for Solar Services. If at any time during the Term, Host receives funding under the EECBG Program, Host shall pay to Nexamp the entirety of such amount as it may receive (the "Prepayment") as a pre-payment of the Nexamp kWh Rate to be charged to Host for Solar Services produced in Contract Years or portions thereof during the Term after the date of receipt by Host of such EECBG Program. Nexamp shall hold such Prepayment in an interest bearing account. In consideration of the Prepayment, Nexamp shall apply that portion of the Prepayment, as necessary to pay the full amount of each invoice for Solar Services delivered during the Term after the Prepayment is made until the Prepayment, including all interest incurred thereon, is applied in full. After the Prepayment has been applied in full to invoices under this Agreement, Host will recommence making payments for Solar Services as contemplated under this Agreement. Nexamp shall continue to deliver statements to Host after receipt of the Prepayment to evidence its proper application of the Prepayment. Nexamp shall apply, as a credit against the purchase price due from Host in connection with its exercise of its option to purchase the System under Section 2.2 or Section 2.5, any portion of the Prepayment which at the time of payment of the purchase price for the System, has not been applied at the Nexamp kWh rate as a credit against amounts due from Host for Solar Services. If any amount of the Prepayment remains unapplied at the end of the Term of this Agreement and Host has not

exercised its option under Section 2.5 to purchase the System, Nexamp shall refund to Host such unapplied portion of the Prepayment.

SECTION 8. PRICE AND PAYMENT.

- 8.1 Payment Amount. Host shall make a payment to Nexamp for the Solar Services provided hereunder (the "Nexamp Services Payment") with respect to each Billing Month of the Term; provided, that if the first Billing Month hereunder ends within ten (10) days of the Commercial Operation Date of the System, the Payment for such Month shall be included in the Nexamp Services Payment for the following Month. The Nexamp Services Payment for any Billing Month shall equal the product of (a) the total electricity produced by the System in the relevant Billing Month as determined in good faith by Nexamp on or shortly after the last day of such Billing Month from recordings produced by the Meters for the System (the "Monthly Production") and (b) the Nexamp kWh Rate for the relevant Month (as specified in Exhibit B attached hereto). Except as may be otherwise expressly provided in this Agreement, no other fees or charges shall be due from Host to Nexamp for the Installation Work or any of the Solar Services.
- Timing and Method of Payment. No later than the tenth (10th) day of each 8.2 Billing Month of the Term after the first full or partial Billing Month: (a) Nexamp shall deliver to Host an invoice showing (i) the amount of the Monthly Production for the previous Billing Month and Nexamp's computation of the Nexamp Services Payment in respect thereof and (ii), if Host has elected to purchase RECs on a unit contingent forward basis pursuant to Section 7.4, an amount equal to the product of the Monthly Production multiplied by the amount set forth on Exhibit F per kWh of Monthly Production and (b) not more than forty-five (45) days after receipt of such invoice, Host shall pay to Nexamp, by wire transfer of immediately available funds to an account specified in writing by Nexamp or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice. All payments which are not paid when due shall bear interest accruing from the date initially due until paid in full at a rate equal to the lesser of: (x) the rate per annum equal to the rate published as the prime rate in the Wall Street Journal plus two percent (2%) and (y) the maximum rate allowed under Applicable Law. All payments made to Nexamp hereunder shall be non-refundable, shall be made, to the extent permitted under Applicable Law, free and clear of any tax, levy, assessment, duties or other charges and amounts not disputed pursuant to Section 8.3 shall not be subject to reduction, withholding, set-off, or adjustment of any kind.
- 8.3 Payment Disputes. If a Dispute arises with respect to any invoice submitted by, or any payment owed to, Nexamp hereunder, the Parties shall attempt to resolve such Dispute amicably. If the Parties cannot resolve the Dispute within thirty (30) days, either Party may submit the Dispute to arbitration in accordance with Section 13; provided, that during the time a bona fide Dispute is pending the disputing Party shall not be deemed in default under this Agreement and the Parties may not suspend the performance of their respective obligations hereunder, including payment of undisputed amounts owed hereunder. Neither party may withhold, deduct or set-off against amounts or credits owed by such party to the other party any undisputed amounts during the time that a Dispute is pending.

SECTION 9. GENERAL COVENANTS.

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



- (a) Permits and Approvals. Nexamp shall use commercially reasonable efforts to secure and maintain all Approvals from relevant Governmental Authorities and Local Distribution Company, and other agreements and consents necessary to enable Nexamp to perform its obligations hereunder; provided, that Host shall cooperate with Nexamp in the foregoing and provide Nexamp with all necessary information and assistance reasonably required (including data concerning the Site). At Host's request, Nexamp shall deliver copies of all Approvals obtained in accordance with this Section 9.1(a) to Host.
- (b) <u>Health and Safety.</u> In performing its obligations hereunder, Nexamp shall comply in all material respects with all Applicable Law pertaining to the safety of persons and property and Nexamp's work. Nexamp shall promptly report to Host any death, lost time injury, or property damage to Host's property that occurs on the License Area.
- (c) Removal of Liens. Nexamp shall not cause or create any mortgage, pledge, lien (including mechanics', labor or materialmen's lien), charge, security interest, encumbrance or claim of any nature ("Liens") on the Site or any interest therein, other than those created hereunder or otherwise on the System; provided, that the foregoing shall not preclude Nexamp, without approval of Host, from encumbering (by security, charge or otherwise) its or a Financing Party's interest in the System on the License Area or otherwise. Nexamp shall also pay, before a fine or penalty may attach to the License Area, any taxes, charges or fees of whatever type of any relevant Governmental Authority, relating to any work performed hereunder by Nexamp or its agents and subcontractors on the License Area. If Nexamp breaches its obligations under this Section 9.1(c), it shall immediately notify Host in writing, shall promptly cause such Lien to be discharged and released of record without cost to Host, and shall defend and indemnify Host against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.
- (d) <u>Damage and Destruction to the Site; Renovations</u>. In the event the Site or any part thereof is damaged or destroyed, Host may elect to repair, rebuild, or restore the Site or any part thereof, to substantially the same condition as it was immediately prior to such damage or destruction. If Host so chooses to repair, restore or rebuild the Site, Nexamp may, but shall not have the obligation to repair, restore or rebuild the System if insurance proceeds available to Nexamp for such purpose are insufficient to cover the costs of such repair, restoration or reconstruction or if Nexamp's Financing Parties determine in their sole discretion not to apply such insurance proceeds to such work.
- (e) Roof Repair. In the event that Host determines in its reasonable discretion that it must replace or repair the roof at the Site, Nexamp shall, if requested by Host, temporarily disassemble and remove within a commercially reasonable amount of time all or such portions of the System as may be necessary to accommodate such roof repairs or replacement and shall, after completion of such repairs or replacement, reinstall all or such portions of the System as may have been temporarily removed. Within thirty (30) days of Nexamp's delivery of an invoice for such disassembly, removal and / or reinstallation services, Host shall pay to Nexamp the amount invoiced, which shall be charged on a time and materials basis, plus five percent (5%), documentation of which shall be supplied with such invoice. Host shall provide at its sole cost and expense storage space and security meeting Nexamp's reasonable approval for any portion of the System disassembled or removed pursuant to this Section 9.1(e). During such time as the

System is partially or completely disconnected, Host's obligation to pay for Solar Services shall be abated for the period during which all or part of the System as may be temporarily removed or uninstalled pursuant to this Section 9.1(e). Nexamp agrees to reinstall the System in a manner that will not void the warranty of the new roof as repaired or installed. In no event shall Host, or an agent, subcontractor or other party or Affiliate of Host, move, repair, disassemble or otherwise work on the System. In no event shall the System be partially or completely disassembled under this Section 9.1(e) for longer than one period of not more than sixty (60) consecutive days during the Term. Nexamp shall bear the cost of roof repair or replacement to the extent it causes damage to the roof within the License Area as a direct result of its acts or omissions to act and replacement or repair of the roof at the License Area is required therefor.

- (f) <u>EECBG Program</u>. Nexamp shall use its commercially reasonable efforts to cooperate with and assist Host in submitting information and applications that may be required for the Host to participate in the Energy Efficiency and Conservation Block Grant Program administered by the Commonwealth of Massachusetts' Department of Energy Resources (the "<u>EECBG Program</u>").
- (g) <u>Decommissioning Assurance</u>. Nexamp shall deliver to Host a check for the full amount of the Decommissioning Assurance not later than fifteen (15) days after the Effective Date.
- 9.2 <u>Host's Covenants</u>. As a material inducement to Nexamp's execution and delivery of the Agreement, Host covenants and agrees as follows:
 - (a) <u>Compliance with Applicable Laws</u>. Host shall at all times comply with all Applicable Laws in connection with the System, the relevant areas of the applicable License Area, and their respective maintenance and operation, including such Laws pertaining to the health and safety of persons and property.
 - (b) <u>Security</u>. Host shall provide and take reasonable measures, including commercially reasonable monitoring of the Site's alarms, for security of the System and to protect the System against loss, theft, damage and vandalism.
 - (c) Access to Site. License Areas and System. Host shall make available regular access to the License Area and the System in order to allow Nexamp to perform the Installation Work and the O&M Work and to allow MTC, upon prior notice, with reasonable access to the License Area and the System.
 - (d) <u>Non-Interference with System</u>. Subject only to Section 6.2, Host shall not touch, disturb, move, otherwise physically interfere with or do anything else on the Site or the License Area which would interfere with, and shall use commercially reasonable efforts to prevent any person, including its employees and other agents, contractors, invitees, licensees and guests, from touching, disturbing, moving, or otherwise physically interfering with or doing anything else on the Site or the License Area which would interfere with, the System in any way without the prior written consent of Nexamp, such consent not to be unreasonably withheld or delayed.
 - (e) <u>Notice of Damage</u>. Host shall promptly notify Nexamp of any matters of which it is aware pertaining to any damage to or loss of the use of the System or that could reasonably be expected to affect the System adversely.

- (f) <u>Solar Radiation</u>; Site Plan. Host shall not take any action, directly or indirectly, including erecting any buildings or structures that would reduce the amount of solar radiation reaching the System and shall adhere to the landscaping requirements of the Site plans included in <u>Exhibit A</u> attached hereto, if any. Furthermore, Host shall use its best efforts to prevent buildings, structures or flora, including buildings, structures or flora not on the Site or owned or controlled by Host, from overshadowing or otherwise blocking the System's access to sunlight.
- (g) <u>Liens</u>. Host shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the System or any interest therein (other than Liens created by, through or under Nexamp). If Host breaches its obligations under this Section, it shall immediately notify Nexamp in writing, shall promptly cause such Lien to be discharged and released of record without cost to Nexamp, and shall indemnify Nexamp against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.
- (h) <u>Consents and Approvals</u>. Host shall secure and maintain, and shall deliver to Nexamp copies of, all Approvals relating to the performance of Host's obligations and the rights granted by Host hereunder, and which are required by the terms, conditions or provisions of any restriction or any agreement or instrument to which Host is a party or by which Host is bound. Host shall also provide reasonable assistance to Nexamp in completing applications for approvals and consents with respect to which Nexamp has primary responsibility, including interconnection with the Local Distribution Company.
- (i) <u>Actions Regarding Subsidies</u>. Host, at the sole cost and expense of Nexamp, shall take whatever actions are reasonably necessary or requested by Nexamp, including completing and executing documentation, in order for the System and/or the production thereof to comply with or qualify for any state and federal government subsidies.
- (j) Intranet Connection. Host shall provide Nexamp at all times free of charge, subject to supervision of Host employees: (i) the right to connect equipment for monitoring the System and its production to Host's intranet and/or internet networks so as to allow Nexamp, or its subcontractors, to monitor remotely the System and its production, and (ii) a working Ethernet connection to an intranet and/or internet network in the area of Host's electrical equipment with bypass of firewalls or right to locate a datalogger within firewalls.
- (k) <u>Cooperation Regarding Financing Statements; Notice of Lease</u>. Host shall execute all financing statements, notices and other filings that Nexamp reasonably requests to perfect, maintain or otherwise protect Nexamp's or its Financing Parties rights in the System.
- (1) <u>Decommissioning Assurance</u>. Not later than thirty (30) days after the Effective Date, Host shall deposit and maintain on deposit for the full Term of this Agreement, the full amount of the Decommissioning Assurance into an interest-bearing deposit account at a bank located in the Commonwealth of Massachusetts. Host shall provide to Nexamp the account number of such deposit account and shall provide current statements to Nexamp not later than sixty (60) days after its request for such statements.

SECTION 10. REPRESENTATIONS AND WARRANTIES.

- 10.1 <u>Representations and Warranties Relating to Agreement Validity</u>. In addition to any other representations and warranties contained in this Agreement, each Party represents and warrants to the other as of the Effective Date that:
 - (a) it is duly organized and validly existing and in good standing in the jurisdiction of its organization and is qualified to do business in the Commonwealth of Massachusetts;
 - (b) it has the full right and authority to enter into, execute, deliver, and perform its obligations under this Agreement;
 - (c) it has taken all requisite corporate or other action to authorize and approve the execution, delivery, and performance of this Agreement;
 - (d) this Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms;
 - (e) to the best of its knowledge, there is no litigation, action, proceeding or investigation pending or threatened on any basis before any court or other Governmental Authority by, against, affecting or involving any of its business or assets (including with respect to Host, the Site, the License Area or any interest therein) that would affect its ability to carry out the transactions contemplated herein; and
 - (f) its execution of, and performance under, this Agreement shall not violate existing Applicable Law or any agreement to which it is a party.
- 10.2 <u>Requisite Standards</u>. Nexamp represents and warrants that it has, or has access to, the requisite expertise and sufficient personnel and resources (including necessary supervision and support services) to deliver the Solar Services. Nexamp guarantees and warrants to Host that the Installation Work, O&M Work and the delivery of Solar Services pursuant to this Agreement will comply in all material respects with all Applicable Laws.
- HEREIN, THE INSTALLATION WORK AND SOLAR SERVICES PROVIDED BY NEXAMP TO HOST PURSUANT TO THIS AGREEMENT SHALL BE "AS-IS WHERE-IS." NO OTHER WARRANTY TO HOST OR ANY OTHER PERSON, WHETHER EXPRESS, IMPLIED OR STATUTORY, IS MADE, WHETHER AS TO THE INSTALLATION, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE SYSTEM, OR ANY SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH ARE EXPRESSLY DISCLAIMED BY NEXAMP.
- 10.4 <u>Additional Host Representation</u>. Host represents and warrants to Nexamp that as of the date of this Agreement no Environmental Violation exists at the Site.

SECTION 11. TAXES AND GOVERNMENTAL FEES.

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

SECTION 12. DEFAULT AND EARLY TERMINATION.

- 12.1 Nexamp Defaults and Host Remedies.
- (a) Nexamp Defaults. The following events shall be defaults of Nexamp (each, a "Nexamp Default"):
 - (i) A Voluntary Bankruptcy Event with respect to Nexamp;
 - (ii) An Involuntary Bankruptcy Event with respect to Nexamp;
 - (iii) Nexamp breaches any material term of this Agreement and such breach remains uncured for sixty (60) days after Host's notice to Nexamp of such breach, if curable within sixty (60) days, or Nexamp fails to commence and pursue diligently a cure to such breach within sixty (60) days of receiving such notice if a longer cure period is needed, , and, in any event, fails to cure within ninety (90) days of receiving such notice; and
 - (iv) With respect to the System individually, Nexamp fails to achieve the Commercial Operation Date of the System on or before the date that the System becomes ineligible for the rebate applied for under the Commonwealth Solar Program administered by the MTC.
- (b) <u>Host's Remedies</u>. Upon the occurrence of any Nexamp Default and during its continuation beyond any applicable cure periods, Host may exercise one or more of the following remedies:
 - (i) terminate this Agreement immediately upon a Nexamp Default pursuant to Section 12.1(a)(i) or (ii) and with at least fifteen (15) days' written notice upon a Nexamp Default pursuant to Section 12.1(a)(iii) or (iv);
 - (ii) cease making Nexamp Services Payments hereunder other than accrued and unpaid amounts for the period prior to termination;
 - (iii) coincident with its delivery of a notice of termination with respect to a Nexamp Default under Section 12.1(a)(iii), elect to acquire and take control and custody of the System at no cost; and
 - (iv) exercise any other remedy it may have at law or equity or under this Agreement, subject to the provisions of Section 13.

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

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

12.2 Host Defaults and Nexamp's Remedies.

- (a) <u>Host Default</u>. The following events shall be defaults of Host (each, a "<u>Host Default</u>"):
 - A Voluntary Bankruptcy Event with respect to Host;
 - (ii) An Involuntary Bankruptcy Event with respect to Host;
 - (iii) Host breaches any material term of this Agreement, other than a provision of Section 17, and such breach remains uncured for sixty (60) days after Nexamp's notice to Host of such breach, if curable within sixty (60) days, or Host fails to commence and pursue diligently a cure to such breach within sixty (60) days of receiving such notice, if a longer cure period is needed, and, in any event, fails to cure within ninety (90) days of receiving such notice;
 - (iv) Host fails to pay Nexamp any amount due Nexamp hereunder within thirty (30) days from the date due;
- (b) <u>Nexamp's Remedies</u>. Upon the occurrence of any Host Default and during its continuation, Nexamp may exercise one or more of the following remedies:
 - (i) terminate this Agreement;

- (ii) suspend the provision of all Solar Services hereunder, including the O&M Work;
- (iii) remove the System from Host's premises in compliance with the conditions of Section 2.5;
 - (iv) [INTENTIONALLY OMITTED]; and / or
- (v) exercise any other remedy it may have at law or equity or under this Agreement, subject to the provisions of Section 13.
- (c) Actions to Prevent Injury. If any Host Default creates an imminent risk of damage or injury to any Person or any Person's property, then in any such case, in addition to any other right or remedy that Nexamp may have, Nexamp may (but shall not be obligated to) take such action as Nexamp deems appropriate to prevent such damage or injury. Such action may include, but is not limited to, disconnecting and removing all or a portion of the System in accordance with the same standards that apply under Section 2.5 or suspending the supply of Solar Services to Host.

12.3 Termination in Consequence of Force Majeure Event.

- (a) If a Force Majeure Event shall have occurred that has materially affected Nexamp's performance of its obligations to provide the Solar Services hereunder and shall have continued for a period of at least one hundred twenty (120) days, then Host shall be entitled to terminate this Agreement upon thirty (30) days' written notice to Nexamp. The Host may include in such notice its election to exercise its purchase option under Section 2.2 to acquire the System. If at the end of such thirty (30) day period such Force Majeure Event shall still be continuing, this Agreement shall automatically terminate. Upon such termination, neither Party shall have any liability to the other, subject to Section 20.5 (Survival).
- (b) Upon the cessation of a Force Majeure Event, the Parties shall continue to perform their respective obligations under this Agreement. Notwithstanding the foregoing, if the System is damaged or destroyed by a Force Majeure Event and Nexamp provides written notice to Host that it intends to rebuild the System, then Nexamp may, at its sole cost and expense, rebuild or fix the System unless Host elects to not repair, restore or rebuild the Site or License Area in accordance with Section 9.1(d). Subsequent to replacement and commencement of operation of the replacement System, all terms and conditions of this Agreement will remain in effect including the remaining term of this Agreement; provided, that Nexamp must have made good faith efforts to order replacement panels and other necessary equipment within ninety (90) days of the completion of the Force Majeure Event.
- (c) Except as otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement (other than of a provision that requires payment of money) if and to the extent that any failure or delay in such Parties' performance of one or more of its obligations hereunder is attributable to the occurrence of a Force Majeure Event; provided, that the Party claiming a Force Majeure Event shall (a) notify the other Party in writing of the existence of the Force Majeure Event,
- (b) promptly exercise all reasonable efforts necessary to minimize delay caused by such

Force Majeure Event, and (c) notify the other Party in writing of the cessation or termination of said Force Majeure Event; and (d) resume performance of its obligations hereunder as soon as practicable thereafter. Notwithstanding anything in this Agreement to the contrary, if Nexamp claims relief pursuant to a "Force Majeure Event," the obligation of Host to make a Solar Services payment to Nexamp on any payment date shall be suspended as of the date that the Force Majeure Event commenced until Nexamp notifies Host that it has resumed performance of its obligations under the Agreement; provided, however, that Host shall not be excused from making any payments and paying any unpaid amounts due in respect of Solar Services provided to Host prior to the Force Majeure Event performance interruption,

SECTION 13, DISPUTE RESOLUTION.

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

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

SECTION 14. LIMITATION OF LIABILITY.

NEITHER PARTY NOR ANY OF ITS INDEMNIFIED PERSONS SHALL BE LIABLE TO THE OTHER PARTY OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, CONSEQUENTIAL OR ANALOGOUS DAMAGES, OR LOSSES OR DAMAGES FOR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, NEXAMP'S MAXIMUM LIABILITY WITH RESPECT TO THE SYSTEM, THE PERFORMANCE, OR FAILURE TO PERFORM, ANY OF THE SOLAR SERVICES, OR OTHERWISE UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED, IN THE AGGREGATE, TO THE AGGREGATE AMOUNT OF FIVE MILLION DOLLARS (\$5,000,000). EACH PARTY HEREBY EXPRESSLY WAIVES ANY CLAIM AGAINST AND RELEASES FROM PERSONAL LIABILITY EACH OF THE OFFICERS, DIRECTORS AND EMPLOYEES OF THE OTHER PARTY EXCEPT TO THE EXTENT OF SUCH PERSON'S WILLFUL MISCONDUCT. NEXAMP AND ITS OFFICERS, AGENTS, EMPLOYEES AND SUBCONTRACTORS, ANY LENDER, EQUITY INVESTOR, FINANCING PARTY, AND ANY DIRECTORS, OFFICERS, MEMBERS, PARTNERS, SHAREHOLDERS AND EMPLOYEES OF THE FOREGOING SHALL HAVE NO LIABILITY WHATSOEVER RELATING TO ANY ENVIRONMENTAL VIOLATION INCLUDING, WITHOUT LIMITATION, THE COSTS OF ASSESSMENT, CONTAINMENT AND REMOVAL OF HAZARDOUS MATERIALS, EXCEPT TO THE EXTENT THAT ANY SUCH CLAIMS ARE DIRECTLY ATTRIBUTABLE TO THE ACTIONS OF NEXAMP.

SECTION 15. ASSIGNMENT AND SUBCONTRACTING.

- 15.1 <u>Successors and Assigns: Subcontracting.</u> This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective permitted successors and assigns; <u>provided</u>, that Nexamp in its discretion may elect to use such certified and licensed subcontractors as it may choose in performing any of its obligations hereunder and performance of any obligation of Nexamp by any such subcontractor shall satisfy such obligation to the extent of such subcontractor's performance.
- 15.2 <u>Assignment by Host.</u> Host shall not sell, transfer, assign, pledge or cause to be assumed (together, "<u>Assign</u>"; and any such action, an "<u>Assignment</u>") this Agreement, in whole or in part, without the prior written consent of Nexamp and its applicable Financing Parties.
- Assignment by Nexamp. Except as set forth in Section 15.4, Nexamp shall not, without the prior written consent of Host, Assign this Agreement, in whole or in part; provided, Host's consent to an Assignment by Nexamp of any of its rights (and/or a delegation of any of its obligations) shall not be unreasonably withheld, delayed or conditioned if Host has been provided with reasonable proof that the proposed assignee: (a) has comparable experience in operating and maintaining solar electric generating System similar to the System; and (b) has the financial

capability to maintain the System in the manner required by this Agreement and to perform the obligations under this Agreement; and provided, further, that without the prior consent of Host, Nexamp may (i) Assign this Agreement to an Affiliate of Nexamp or (ii) Assign its interest in any monies due under this Agreement (it being understood, however, that in such a case, Host will not pay to a third party any monies owed hereunder without the advance written direction of Nexamp, which notice Nexamp shall provide not less than fifteen (15) days in advance of the due date of such payment). Any assignment shall be conditioned upon the assignee explicitly assuming all of Nexamp's obligations under this Agreement. Neither the consent of Host to an Assignment, nor the references in this Agreement to assignees or successors, shall in any way be construed to relieve Nexamp (in the event of a partial assignment) or any assignee of the requirement of obtaining the consent of Host to any further Assignment of this Agreement. Nexamp shall deliver to Host five days' (5) advance written notice of its Assignment of this Agreement pursuant to the first sentence of this Section 15.3 or clause (i) of this Section 15.3.

- 15.4 Consent to Assignment for Financing or Leasing. Nexamp may seek financing for the ownership of all or a portion of the System under this Agreement, whether by leasing all or a portion of the System from an Equipment Leasing Party or entering into other arrangements with a Financing Party in the form of an equipment lease, finance lease, debt, equity, tax equity or other financing arrangement. Notwithstanding any provisions in this Agreement to the contrary, Nexamp may collaterally assign, or assign fully in connection with any financing of the System (which may, in connection with such Assignment, permit the Financing Party to further assign collaterally), its rights, and/or obligations hereunder, or the Agreement in its entirety for purposes of securing such financing or leasing arrangement. Host hereby consents to any such Assignment, provided that:
 - (a) such Assignment shall not create any Lien or other encumbrance on the Site other than Nexamp's rights pursuant to Section 4.1 and Nexamp's other rights and obligations contemplated in this Agreement nor on any other real or personal property located on the Site other than the System;
 - (b) all provisions regarding the entry onto and use of the applicable License Area shall remain in effect;
 - (c) the Financing Party, as applicable, shall enforce its interest and protect the applicable License Area in accordance with Nexamp's obligations hereunder;
 - (d) Host acknowledges that upon and following an event of default under any financing or leasing documents relating to the System, the Financing Parties, if any, may (but shall not be obligated to) assume, or cause their designees to assume, all of the interests, rights and obligations of Nexamp thereafter arising under this Agreement; and
 - (e) If the rights and interests of Nexamp in this Agreement shall be Assigned, in whole or in part, as herein provided, and the assignee shall agree in a writing submitted to Host to be bound by, and to assume, the terms and conditions hereof and any and all obligations to Host arising or accruing hereunder from and after the date of such Assignment (or, in the case of a partial Assignment, to be bound by the portion of this Agreement so assigned and relevant associated obligations to Host arising or accruing hereunder from and after the date of such Assignment), Nexamp shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date (or, in the case of a partial Assignment, released and discharged of the terms and conditions hereof so assigned and the associated obligations hereunder from

and after such date), and Host shall continue this Agreement, or the relevant portion of this Agreement with the assignee as if such person had been named as Nexamp under this Agreement; provided that such assignee: (a) has experience in operating and maintaining solar electric generating System similar to the System and in similar geographic location and climate comparable to that in which the System is located and personnel qualifications and performance record contained in Nexamp's proposal; and (b) has financial capability to maintain the System in the manner required by this Agreement and to perform the obligations under this Agreement, each substantially similar to that of Nexamp; and provided, further, that if Nexamp Assigns this Agreement, or any portion hereof, to a Financing Party as provided herein, Host acknowledges and agrees that such Persons shall not be personally liable for the performance of such assigned obligations hereunder except to the extent of the interest of the Financing Parties in the System. Notwithstanding any such Assignment to one or more Financing Parties or a designee thereof, Nexamp shall not be released and discharged from and shall remain liable for any and all obligations to Host arising or accruing hereunder (and, in the case of a partial Assignment, for the obligations accruing after the date of such Assignment with respect to obligations accruing under the unassigned portion of the Agreement). Nexamp shall not, however, have any liability for any action or omission of the Financing Party hereunder.

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

15.5 Rights of Financing Parties.

- (a) A Financing Party may perform, but shall not be obligated to perform, any of Nexamp's obligations hereunder, including holding and conveying title to the System. The rights of Nexamp hereunder shall apply, to the extent relevant, *mutatis mutandis* to any Financing Party.
- (b) Any Financing Party shall be the beneficiary of any and all representations, warranties and covenants made by Host to Nexamp hereunder, including the covenants made in Section 4 and Section 9.
- (c) Any Financing Party shall each have the benefit of the license to the Site provided to Nexamp pursuant to Section 4.1.
- are for the benefit of any Financing Party as well as the Parties hereo, and shall be enforceable by any Financing Party as express third-party beneficiaries hereof. Host hereby agrees that neither a Financing Party, nor any Person for whom they may act, shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Agreement on the part of Nexamp or shall have any obligation or liability to Host with respect to this Agreement except to the extent any of them becomes a party hereto pursuant to this Section 15.

SECTION 16. NOTICES.

- 16.1 <u>Notice Addresses</u>. Unless otherwise provided in this Agreement, all notices and communications concerning this Agreement shall be in writing and addressed to the other Party as set forth on the Cover Sheet or at such other address as may be designated in writing to the other Party.
- 16.2 Notice. Unless otherwise provided herein, any notice provided for in this Agreement shall be hand delivered, sent by registered or certified U.S. Mail, postage prepaid, or by commercial overnight delivery service, or transmitted by facsimile, and shall be deemed served or delivered to the addressee or its office when received at the address for notice specified herein when hand delivered, upon confirmation of sending when sent by facsimile (if sent during normal business hours or the next business day if sent at any other time), on the day after being sent when sent by overnight delivery service, or five (5) business days after deposit in the mail when sent by U.S. mail.
- desire or is required to give to or serve upon a Financing Party in accordance with the terms of this Agreement shall be in writing and shall be served in accordance with the provisions of Section 16.2, addressed to such Financing Party at such party's addresses provided in writing by a Financing Party or by Nexamp to Host, and any notice or other communication which the Financing Party shall desire or be required to give to or serve upon Host shall be deemed to have been duly given or served if sent in accordance with the provisions of Section 16.1 or at such other address as shall be designated by Host by notice in writing given to such Financing Party in accordance with the provisions of this Section 16.
- 16.4 MTC Notice. Any notice or other communication which Host shall desire or is required to give to or serve upon MTC in accordance with the terms of this Agreement shall be in writing and shall be served in accordance with the provisions of Section 16.2, addressed to MTC at 75 North Drive, Westborough, Massachusetts, (508) 898-2275 (Fax), Attn: General Counsel.
- 16.5 Address for Invoices. All invoices under this Agreement shall be sent to the address provided for Host on the Cover Sheet. Invoices shall be sent by regular first class mail postage prepaid or as otherwise agreed by the Parties.

SECTION 17. CONFIDENTIALITY.

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

- 17.2 Goodwill and Publicity. The Parties shall coordinate and cooperate with each other when making public announcements related to this Agreement Neither Party shall use the name, trade name, service mark, or trademark of the other in any promotional or advertising material without the prior written consent of the other.
- 17.3 <u>Survival</u>. The obligations set forth in this Section 17 shall survive expiration or termination of this Agreement for a period of three (3) years.

SECTION 18. INDEMNITY.

- 18.1 Nexamp's Indemnity. Nexamp shall indemnify, defend and hold harmless the Host, its officers, agents and employees (each a "Host Indemnitee") of and from any claim, demand, lawsuit, or action of any kind for injury to or death of persons, including, but not limited to, employees of Host, and damage or destruction of property, including, but not limited to, property of Host, or other loss or damage (any of the foregoing, a "Claim") incurred by Host, arising out of (i) negligent acts or omissions or willful misconduct of Nexamp, its agents, officers, directors, employees or contractors; or (ii) the material breach by Nexamp of any of its obligations under this Agreement. The obligation to indemnify shall extend to and encompass all costs incurred by Host and any Host Indemnitee in defending such claims, demands, lawsuits or actions, including, but not limited to, attorney, witness and expert witness fees, and any other litigation related expenses.
- 18.2 <u>Limitations</u>. Nexamp's obligations pursuant to Section 18.1 shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the negligence or willful misconduct of the Host, its Indemnitees, or their respective contractors, successors or assigns, or to the acts of third parties. Nexamp shall pay any cost that may be incurred by Host or its Indemnitees in enforcing this indemnity, including reasonable attorney fees.

SECTION 19. INSURANCE.

- 19.1 <u>Generally</u>. Host shall maintain in full force and effect throughout the Term an Umbrella Liability Insurance covering all municipal operations and property in the amount of \$30 million. Nexamp shall maintain the following insurance coverages in full force and effect throughout the Term:
 - (a) Workers' Compensation Insurance as may be from time to time required under applicable federal and state law;
 - (b) Commercial General Liability Insurance on an occurrence (not claims-made) form, including premises and operations, personal injury, broad form property damage, products/completed operations, contractual liability and independent contractors protective liability all with minimum combined single limit liability of two million dollars (\$2,000,000) in the aggregate and one million dollars (\$1,000,000) per occurrence; and

- (c) Automobile Liability Insurance (including owned, non-owned and hired) with limits of not less than one million dollars (\$1,000,000) combined single limit and in the aggregate.
- (d) All Risk Property Coverage and Boiler and Machinery Coverage, or All Risk Builder's Risk Insurance during construction, against damage to the System during the Term in an amount not less than the full replacement cost of the System, with commercially reasonable sub-limits and deductibles. Such insurance shall provide for a waiver of the underwriters' right to subrogation against the Host and its affiliates.
- (e) Excess Umbrella Liability Insurance in an amount not less than five million dollars (\$5,000,000).

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

- 19.2 <u>Casualty Insurance</u>. In addition to the insurance coverages required by Section 19.1, Nexamp shall obtain casualty loss property insurance on the System in an amount which Nexamp deems reasonable, based on its understanding of prudent solar industry practices. Nexamp may provide a Financing Party, if any, with the first rights to any payout from any such insurance policy.
- 19.3 <u>Certificates of Insurance</u>. Each Party shall furnish current certificates evidencing that the insurance required under Section 19.1 is being maintained. Each Party's insurance policy provided hereunder shall contain a provision whereby the insurer agrees to give the other Party thirty (30) days' written notice before the insurance is cancelled or materially altered.
- 19.4 <u>Additional Insureds</u>. Each of the Host's and Nexamp's insurance policies shall be written on an occurrence basis and shall include the other Party as an additional insured as its interest may appear.
- 19.5 <u>Self-Insurance</u>. Any insurance required by this Section to be maintained by either Party may be maintained in the form of self-insurance if such insurance is not commercially available at reasonable rates.
- 19.6 <u>Insurer Qualifications</u>. All insurance maintained hereunder, other than self-insurance, shall be maintained with companies authorized to do business in Massachusetts and either rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated) or having a parent company's debt to policyholder surplus ratio of 1:1.

SECTION 20. MISCELLANEOUS.

20.1 <u>Interpretation</u>. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement. Words in this Agreement that import the singular connotation shall be interpreted as plural, and words that import the plural connotation shall be interpreted as singular, as the identity of the parties or objects referred to may require; provided, for the benefit of clarity, the Parties acknowledge that with respect to the use of the singular form of "System" and the plural "System" shall be interpreted in the context of any right of Host to purchase the System as applying to both System; i.e. the Host may not purchase only a single System. The words "hereof", "herein", and "hereunder" and words of

similar import refer to this Agreement as a whole and not to any particular provision of this Agreement. The words "include", "includes", and "including" mean include, includes, and including "without limitation". Except as the context otherwise indicates, all references to "Exhibits" and "Sections" refer to Exhibits and Sections of this Agreement.

- 20.2 <u>Industry Standards</u>. Except as otherwise set forth herein, for the purpose of this Agreement the normal standards of performance considered to be prudent within the solar power generation industry in Massachusetts shall be the measure of whether a Party's performance is reasonable and timely. Unless expressly defined herein, words having well-known technical or trade meanings shall be so construed.
- 20.3 <u>Cumulative Remedies</u>. Except as set forth to the contrary herein, any right or remedy of Nexamp or Host shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.
- 20.4 <u>Limited Effect of Waiver</u>. The failure of either Nexamp or Host to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance or of any other provision in any instance.
- 20.5 Survival. In addition to the other provisions of this Agreement that shall survive any expiration or termination hereof in accordance with the explicit terms thereof, the provisions of Section 1 (Definitions), Section 10.3 (Exclusion of Warranties), Section 11 (Taxes and Governmental Fees), Section 13 (Dispute Resolution), Section 14 (Limitation of Liability), Section 15 (Assignment and Subcontracting), Section 16 (Notices), Section 17 (Confidentiality), Section 18 (Indemnity) and Section 20 (Miscellaneous) shall survive the expiration or termination of this Agreement for any reason; provided, that the survival of any particular provision or set of provisions shall be limited in duration if and to the extent such survival is explicitly limited herein or otherwise limited by Applicable Law.
- 20.6 Severability. If any term, covenant or condition in this Agreement shall, to any extent, be invalid or unenforceable in any respect under the laws governing this Agreement, the remainder of this Agreement shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law and, if appropriate, such invalid or unenforceable provision shall be modified or replaced to give effect to the underlying intent of the Parties and to the intended economic benefits of the Parties.
- 20.7 <u>Cover Sheet.</u> For the avoidance of doubt, the Parties acknowledge that the signatures of their duly authorized representatives follow the two-page Cover Sheet at the beginning of this Agreement and that the foregoing Terms and Conditions are incorporated into this Agreement.

[Remainder of Page Intentionally Left Blank]

EXHIBIT A

DESCRIPTION OF SITE

The building is oriented approximately 191 degrees True South. There is generally good solar access, with exception of varying roof heights and obstructions from trees, pipe vents, and exhaust fans. There is no parapet, and roof heights range from 20 feet to approximately 25 feet.



A photo of the roof where Array A will be installed



A photo of the roof where Array B will be installed. Note the trees on the far south side of the roof; these will need to be monitored and trimmed over time so as not to interfere with output of the solar array.



Main electrical panel.



The main breaker.

EXHIBIT B

NEXAMP KWH RATE



The Nexamp kWh Rate shall be eight and eight tenths cents (\$.069) per kilowatt hour for all electricity generated by the System during the Term.

EXHIBIT C

DESCRIPTION OF SYSTEM

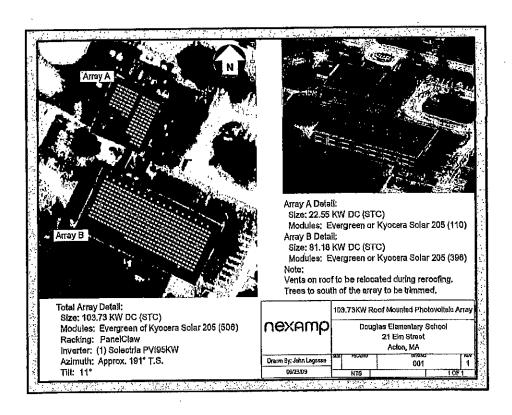


EXHIBIT D

EARLY TERMINATION PRICE SCHEDULE

Contract Year	Early Termination Price	
1	\$	504,829
2	\$	448,737
3	\$	392,645
4	\$	336,553
5	\$	280,461
6	\$	252,414
7	\$	153,935
. 8	\$	144,392
9	\$	134,849
10	\$	125,306
11	\$	117,671
12	\$	110,037
13	\$	102,402
14	\$	94,768
15	\$	87,133
16	\$	81,407
17	\$	75,681
18	\$	69,956
19	\$	64,230
, 20	\$	58,504

EXHIBIT E

REC PURCHASE OPTION PRICING

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

EXHIBIT F

GUARANTEED PRODUCTION

Contract Years	Predicted Aggregate Production (kWh)	Avoided Cost (per kWh Shortfall in Actual Production)
I st through 4 th	450,941	TBD
5 th through 8 th	441,990	TBD
9 th through 12 th	433,216	TBD
13 th through 16 th	424,617	TBD
17 th through 20 th	416,188	TBD

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

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

EXHIBIT G

NEXAMP PROPOSAL AND AMENDMENT

[Attached]

Exhibit O

THIS ASSIGNMENT AND ASSUMPTION OF AGREEMENT ("Assignment") is made and entered into as of _______, 2014 by and between the Town of Acton, a Massachusetts municipality, ("Assignor"), and Acton-Boxborough Regional School District, a Massachusetts regional school district ("Assignee").

RECITALS

- A. Assignor is the host under that certain Commercial Power Purchase Agreement by and between Assignor and Nexamp Capital PUB 1, LLC ("Nexamp") dated February 4, 2010 (the "Purchase Agreement") for the purchase of solar services located at the CT Douglas Elementary School, 21 Elm Street, Acton, Massachusetts (the "School Property").
- B. Assignor and Assignee have entered into that certain Intermunicipal Agreement dated as of ______, 2014 (the "Intermunicipal Agreement") with respect to, among other things, the transfer of the School Property.
- C. Section 12.b.i of the Intermunicipal Agreement requires Assignor and Assignee to execute this Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

- 1. <u>Definitions</u>. All capitalized terms used but not otherwise defined herein shall have the respective meanings provided therefor in the Purchase Agreement.
- 2. Assignment and Assumption. From and after the date hereof for the remainder of the term of the Purchase Agreement, Assignor hereby irrevocably assigns, sets over, transfers, grants, bargains and conveys to Assignee all of Assignor's right, title and interest in and to the Purchase Agreement. Assignee hereby expressly assumes, for itself and its successors, assigns and legal representatives, the Purchase Agreement and all of the rights, obligations and liabilities, fixed and contingent, of Assignor thereunder first accruing and arising on or after the date hereof and agrees to (a) be fully bound by all of the terms, covenants, agreements, provisions, conditions, obligations and liabilities of Assignor thereunder that first accrue and arise on or after the date hereof, and (b) keep, perform and observe all of the covenants and conditions contained therein on the part of Assignor to be kept, performed and observed on or after the date hereof.

3. General Provisions.

- a. <u>Successors</u>. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.
- b. <u>Counterparts.</u> This Assignment may be executed in as many counterparts as may be deemed necessary and convenient, and by the different parties hereto on

- separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same instrument.
- c. Governing Law. This Assignment and the legal relations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to its principles of conflicts of law.
- d. No Representation or Warranty. ASSIGNOR DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER IN CONNECTION WITH THIS ASSIGNMENT AND THE PURCHASE AGREEMENT.

[Signatures on next page]

IN WITNESS WHEREOF, this Assignment was made and executed as of the date first above written.

ASSIGNEE: ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT	ASSIGNOR: TOWN OF ACTON	
By its Regional School District Committee	By its Board of Selectmen	
Name: Title: Chair Duly authorized by vote of the Regional District School Committee dated and attached hereto	Name: Title: Chair Duly authorized by vote of the Board of Selectmen dated and attached hereto	
	[And by the Acton School Committee	
N.	Name: Title: Chair Duly authorized by vote of the Acton School Committee dated and attached hereto]	
	Approved and acknowledged on this day of, 2014.	
	NEXCAMP CAPITAL PUB 1, LLC, a Delaware limited liability company	
	By: NEXCAMP, INC., a Delaware corporation, its Sole Member	
	By: Name: Title:	

Exhibit P

Agreement for Douglas School Basketball Courts (to be attached)

AGREEMENT

This Agreement is entered into on this 23 day of 77cc, 2006, by and between the ACTON PUBLIC SCHOOL DEPARTMENT, having its principal office at 16 Charter Road, Acton MA 01720 (the "Schools") and the TOWN OF ACTON, a municipal corporation, having its principal office at Town Hall, 472 Main Street, Acton MA 01720 (the "Town").

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WHEREAS, the Acton Community Preservation Committee has recommended, and the Acton Town Meeting has approved, a grant in the amount of up to \$20,000 to the Schools toward the construction of the new outdoor basketball courts at the Douglas School, Elm Street, Acton (the "Douglas School Basketball Courts"), subject to conditions as set forth in an award letter attached hereto.

WHEREAS, the Schools have accepted that grant subject to those conditions.

WHEREAS, the Douglas School Basketball Courts will have a normal expected life of not less than 20 years from the date of completion of construction (the "Useful Life").

NOW, THEREFORE, for adequate consideration the receipt and sufficiency of which are hereby acknowledged, the undersigned parties agree as follows:

1. Term

The Term of this Agreement shall be 20 years from its execution by all parties hereto.

2. Maintenance Condition

During the Term of this Agreement and subject to appropriation of funds for such purpose, the Schools shall perform all actions necessary to operate, maintain, patrol, inspect, and repair Douglas School Basketball Courts in safe playing condition, reasonable wear and tear excepted, from the date of completion of its construction and throughout their Useful Life (the "Maintenance Condition"). The Schools shall budget the necessary funds and staffing resources to satisfy the Maintenance Condition throughout its Term.

3. Use of the Douglas School Basketball Courts

During the Term of this Agreement, the Schools shall make the Douglas School Basketball Courts available to the Town and Town-approved community groups, free of charge, for sports practices, sports events and other recreational activities such as Town sports leagues, adult sports leagues, instructional sports clinics, summer sports camps, tournaments, and the like.

To minimize potential conflicts over the use of the Douglas School Basketball Courts and to maximize the efficient and appropriate allocation of time slots (including prime afternoon, evening and weekend time slots), the Town and the Schools agree that both initially and throughout the Term of this Agreement, the Rules of Priority, attached as Exhibit 1, shall be used to allocate shared use of the Douglas School Basketball Courts between the Town and the Schools. The Rules of Priority may be altered or amended from time to time by agreement of the Acton Public School Committee and the Acton Board of Selectmen or their respective designees.

Throughout the Term of this Agreement, the Reservation Rules and Regulations, attached as Exhibit 2, shall govern the use of the Douglas School Basketball Courts. The Field Reservation Rules and Regulations may be altered or amended from time to time by agreement of the Action Public School

Committee and the Acton Board of Selectmen or their respective designees.

4. Certain Operational Matters

Any necessary permits or licenses needed to use the Douglas School Basketball Courts by any person or entity shall be obtained by the persons or entities intending to use the courts and copies shall be provided to the Town and the Schools. To the extent any large scale or unusual use (as reasonably determined by either the Town or the Schools) of the Douglas School Basketball Courts is contemplated by any person or entity, the Schools and/or the Town shall have the right to require a police presence and/or that custodial or other similar services be provided and in each case paid for by such users with respect to such use. Payment of the cost of the police detail, custodial services, and/or similar services shall not be considered a fee for the use of the courts but rather shall be a cost incidental to the user's event.

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5. Sovereign Immunity

It is expressly understood and agreed, and all users of the New Douglas School Basketball Courts shall be on notice that the Schools and the Town have sovereign immunity and statutory immunity as provided under Massachusetts law with respect to any use of the Douglas School Basketball Courts and ancillary School property such as access ways, the parking areas and the like,

IN WITNESS WHEREOF, the parties have executed this Agreement of the day and year first above written.

Acton Public School Committee

ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS COUNTY OF MIDDLESEX

On this day of May, 2006, before me, the undersigned Notary Public, personally appeared John E. Ryder, Chairman of the Acton Public School Committee, proved to me through satisfactory evidence of identification, namely my personal knowledge to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose as the foregoing Chairman of the Acton Public School Committee.

My commission expires (official signature and seal of notary)

Sarah F. Lawton
Notary Public
It is Commonwealth of Massachusetts
My Commission Expires
January 19, 2012

Town of Agion

Walter M. Foster, Chairman

Board of Selectmen, Town of Actory

ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS COUNTY OF MIDDLESEX

On this 32 day of 1,2006, before me, the undersigned Notary Public, personally appeared Walter M. Foster, Chairman of the Town of Acton Board of Selectmen, proved to me through satisfactory evidence of identification, namely my personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose as the foregoing Chairman of the Board of Selectmen of the Town of Acton, a municipal corporation.

Market Ul Course (official signature and seal of notary)

My commission expires 524 21, 2025

EXHIBIT 1

DOUGLAS SCHOOL BASKETBALL COURTS RULES OF PRIORITY

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Unless altered or amended by agreement of the Acton Public School Committee and the Acton Board of Selectmen or their respective designees, the following Rules of Priority shall be used to allocate shared use of Douglas School Basketball Courts between the Town and the Schools throughout the term of this Agreement:

- In allocating time slots between and among the Schools and the Town, the Town and the Schools shall be guided by the principle that Douglas School Basketball Courts shall be a shared recreational resource designed to help promote and sustain a vibrant and diverse array of intra-scholastic, inter-scholastic, Town and community sporting and recreational events to promote the health and well-being of the Town's and the Schools' students, youth, adults, and families. Accordingly, the Selectmen and the School Committee (or their respective designees) shall agree upon a balanced allocation schedule between the Schools and the Town that takes into account seasonal sports' needs, increased summer flexibility and hours when school is out and days are longer, and other considerations appropriate to reaching an annual equitable balance between the Schools and the Town.
- Each December for spring sports and each May for summer and fall sports, the Town of Acton and the Schools will distribute a single request form to youth and adult sports associations. A joint scheduling meeting shall be held between the Selectmen and the School Committee (or their respective designees) in January for spring and June for summer and fall sports. At that time any conflicts in the use of the New Douglas School Basketball Courts will be resolved by consensus.
- The Schools shall receive priority for use of the New Douglas School Basketball Courts on school days during school hours. The Town shall receive priority for us of the New Douglas School Basketball Courts all other times, during which community groups, including youth and adult sports leagues, are encouraged to use the courts at all other available times.
- For any of the time specifically reserved for the use of the Town, the Town reserves its right to waive all or a portion of its time in any year without waiving future years' rights to the same time.

EXHIBIT 2

DOUGLAS SCHOOL BASKETBALL COURTS RESERVATIONS: RULES AND REGULATIONS

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The Acton Public Schools and the Town of Acton are proud of our capability to offer our community a shared recreational resource in Douglas School Basketball Courts. This resource is designed to help promote and sustain a vibrant and diverse array of intra-scholastic, interscholastic, Town and community sporting and recreational events to promote the health and well-being of the Town's and the Schools' students, youth, adults, and families. We welcome community use of Douglas School Basketball Courts through the procedure laid out below.

Reservations

Reservations for Douglas School Basketball Courts will be made on the following priority classification:

- Class 1 School activities (priority given during school hours)
- Class 2 Town activities (priority given during non-school hours)
- Class 3 Community Education-sponsored activities, Town of Acton Recreation Department-sponsored activities, and youth and adult sports leagues
- Class 4 Acton residents and businesses
- Class 5 Non-Acton non-profit organizations, and commercial uses (e.g., sports camps sponsored by for-profit organizations)

Reservation Procedures

Twice a year there will be a scheduling meeting with representatives of Class 1-4 users interested in obtaining season permits. This meeting will be held in conjunction with the Acton Recreation Department. Class 1-4 users will be notified as to the time and place of this meeting. At that meeting, all scheduling concerns for the upcoming season will be addressed and the schedule of field use formalized.

Revocation of Field Permits

The Acton Public Schools and the Town of Acton reserve the right to revoke a reservation permit under the following conditions:

- 1. Use of alcohol at the school site or parking lots.
- 2. Use of other controlled substances at the school site or parking lots.
- 3. Excessive litter.
- 4. Cars parked on the grass areas.

5. Use of foul or abusive language.

6. Other misuses determined by the Acton Recreation Department or the Acton School

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Additional reservation requests made by any individual/team whose permit has been revoked will be denied for the balance of the season. Teams/individuals will be held responsible for any damage caused by misuse,

Conditions of Use

All users of the New Douglas School Basketball Courts are on notice that the Schools and the Town have sovereign immunity and statutory immunity as provided under Massachusetts law with respect to any use of the Douglas School Basketball Courts and ancillary School property such as access ways, the parking areas and the like.

Exhibit Q

Agreement for Gates School Playground (to be attached)

AGREEMENT

This Agreement is entered into on this 2nd day of May , 2006, by and between the ACTON PUBLIC SCHOOL DEPARTMENT, having its principal office at 16 Charter Road, Acton MA 01720 (the "Schools") and the TOWN OF ACTON, a municipal corporation, having its principal office at Town Hall, 472 Main Street, Acton MA 01720 (the "Town").

WHEREAS, the Acton Community Preservation Committee has recommended, and the Acton Town Meeting has approved, a grant in the amount of up to \$16,000 to the Schools toward the construction of the Gates School Playground, subject to conditions as set forth in an award letter attached hereto.

WHEREAS, the Schools have accepted that grant subject to those conditions.

WHEREAS, the Gates School Playground will have a normal expected life of not less than 20 years from the date of completion of construction (the "Useful Life").

NOW, THEREFORE, for adequate consideration the receipt and sufficiency of which are hereby acknowledged, the undersigned parties agree as follows:

1 Term

The Term of this Agreement shall be 20 years from its execution by all parties hereto.

2. Maintenance Condition

During the Term of this Agreement and subject to appropriation of funds for such purpose, the Schools shall perform all actions necessary to operate, maintain, patrol, inspect, and repair Gates School Playground in a safe playing condition, reasonable wear and tear excepted, throughout the Useful Life of the equipment (the "Maintenance Condition"). The Schools shall budget the necessary funds and staffing resources to satisfy the Maintenance Condition throughout its Term.

3. Use of the Gates School Playground

During the Term of this Agreement, the Schools shall make the Gates School Playground available to Town residents and the general public, free of charge, outside of school hours and class recess times

4. Sovereign Immunity

It is expressly understood and agreed, and all users of the Gates School Playground shall be on notice that the Schools and the Town have sovereign immunity and statutory immunity as provided under Massachusetts law with respect to any use of the Gates School Playground and ancillary School property such as access ways, the parking areas and the like.

IN WITNESS WHEREOF, the parties have executed this Agreement of the day and year first above written.

Acton Public School Department

William Ryan, Superintendent

ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS COUNTY OF MIDDLESEX

On this 2ndday of May, 2006, before me, the undersigned Notary Public, personally appeared William Ryan, Superintendent of the Acton Public School Department, proved to me through satisfactory evidence of identification, namely my personal knowledge to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose as the foregoing Superintendent of the Acton Public School Department.

My commission expires 1/19/2012



Sarah T. Lawton
Notary Public
Commonwealth of Massachusetts
My Commission Expires
January 19, 2012

Town of Acton

Johnson, Town Manager

ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS COUNTY OF MIDDLESEX

On this day of the Johnson, Town Manager of the Town of Acton, proved to me through satisfactory evidence of identification, namely my personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose as the foregoing Town Manager of the Town of Acton, a municipal corporation.

My commission expires 2/27/39

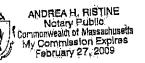


Exhibit R

BENEFICIAL INTEREST DISCLOSURE STATEMENT ACQUISITION OF REAL PROPERTY

For acquisition of Real Property by the Acton-Boxborough Regional School District, the undersigned does hereby state, for the purposes of disclosure pursuant to Massachusetts General Laws, Chapter 7C, Section 38, of a transaction relating to real property as follows:

- (1) <u>REAL PROPERTY DESCRIPTION</u>: 80 Taylor Road, 75 Spruce Street, 21 Elm Street, 433 Massachusetts Avenue, 15 Charter Road and 199 Arlington Street, Acton, Massachusetts
- (2) TYPE OF TRANSACTION: Purchase
- (3) SELLER: Town of Acton
- (4) <u>BUYER:</u> Acton-Boxborough Regional School District
- (5) Names and addresses of all persons who have or will have a direct or indirect beneficial interest in the real property described above:

NAME

RESIDENCE

Acton-Boxborough Regional School District

16 Charter Road Acton, Massachusetts 01720

- (6) None of the above mentioned persons is an employee of the Division of Capital Asset Management or an official elected to public office in the Commonwealth except as listed below.
- (7) This section must be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency named above. If this form is signed on behalf of a corporation or other legal entity, it must be signed by a duly authorized officer of that corporation or legal entity. The undersigned acknowledges that any changes or additions to items 3 and or 4 of this form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Asset Management and Maintenance within thirty (30) days following the change or addition.

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

Signature:	
Printed Name: Dr. Steven Mills	•
Title: Superintendent	
Date:	

Exhibit S

Authorizing Vote of A-B Regional School District Committee

RECORD OF VOTE OF THE ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT SCHOOL COMMITTEE

April 3, 2014

At a duly called public meeting of the Acton-Boxborough Regional School District School Committee on April 3, 2014, the Committee voted as follows:

- 1. To approve that certain intermunicipal Agreement (the "<u>Agreement</u>") between the Acton-Boxborough Regional School District (the "<u>District</u>") and the Town of Acton (the "<u>Town</u>"), with its Exhibits, in the form presented to the Committee at its April 3, 2014 meeting.
- 2. To authorize the Chair of the Committee to execute the Agreement on behalf of the Committee.
- To approve that certain Memorandum of Understanding (the "MOU") between the District and the Town in the form presented to the Committee at its April 3, 2014 meeting.
- 4. To authorize the Chair of the Committee to execute the MOU on behalf of the Committee.
- 5. To authorize the Superintendent of Schools to take all actions on behalf of the Committee that are reasonably necessary, in the judgment of the Superintendent of Schools, to complete the acquisition of various properties and the conveyance of various easements in accordance with the Agreement, including without limitation executing all deeds, easements, a bill of sale, assignments of contracts, closing forms, closing documents, and settlement statements.

ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT SCHOOL COMMIT	

Exhibit T

Authorizing Vote of A-B Transitional Regional School District Committee

RECORD OF VOTE OF THE ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT TRANSITIONAL SCHOOL COMMITTEE

April 3, 2014

At a duly called public meeting of the Acton-Boxborough Regional School District Transitional School Committee on April 3, 2014, the Committee voted as follows:

- 1. To approve that certain intermunicipal Agreement (the "<u>Agreement</u>") between the Acton-Boxborough Regional School District (the "<u>District</u>") and the Town of Acton (the "<u>Town</u>"), with its Exhibits, in the form presented to the Committee at its April 3, 2014 meeting.
- 2. To authorize the Chair of the Committee to execute the Agreement on behalf of the Committee.
- 3. To approve that certain Memorandum of Understanding (the "MOU") between the District and the Town in the form presented to the Committee at its April 3, 2014 meeting.
- 4. To authorize the Chair of the Committee to execute the MOU on behalf of the Committee.
- 5. To authorize the Superintendent of Schools to take all actions on behalf of the Committee that are reasonably necessary, in the judgment of the Superintendent of Schools, to complete the acquisition of various properties and the conveyance of various easements in accordance with the Agreement, including without limitation executing all deeds, easements, a bill of sale, assignments of contracts, closing forms, closing documents, and settlement statements.

ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT TRANSITIONAL SCHOOL COMMITTEE			
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Exhibit U

Authorizing Vote of Acton Board of Selectmen

RECORD OF VOTE OF THE ACTON BOARD OF SELECTMEN March 17, 2014

At a duly called public meeting of the Acton Board of Selectmen on March 17, 2014, the Board voted as follows:

- 1. To approve that certain Intermunicipal Agreement (the "<u>Agreement</u>") between the Town and the Acton-Boxborough Regional School District (the "<u>District</u>"), with its Exhibits, substantially in the form presented to the Board at its March 17, 2014 meeting, with such final changes as are approved by the Chair of the Board of Selectmen in her reasonable discretion in consultation with the Town Manager and town counsel, concerning:
 - a. the conveyance to the District of the following school properties in the Town of Acton: (i) the Luther Conant Elementary School, 80 Taylor Road, (ii) the Gates Elementary School, 75 Spruce Street, (iii) the CT Douglas Elementary School, 21 Elm Street, (iv) the McCarthy-Towne Elementary School and the Merriam Elementary School, both housed in the Parker Damon Building, 433 Massachusetts Avenue, (v) the Administration Building, formerly known as the Merriam Elementary School, 15 Charter Road, and (vi) the land located at 199 Arlington Street, identified as Parcel 20-1 on the Town of Acton Assessor's Map F-2A (collectively, the "Property");
 - b. the reservation and acceptance of certain easements in the Property and other properties of the District;
 - c. the transfer on June 30, 2014 of any and all remaining real property and interests that may be under the care, custody and control of the Town of Acton School Committee from the School Committee to the Board of Selectmen; and
 - d. Other matters as set forth in the Agreement.
- 2. To authorize the Chair of the Board of Selectmen to execute the Agreement on behalf of the Board of Selectmen.
- 3. To approve that certain Memorandum of Understanding (the "MOU") between the District and the Town substantially in the form presented to the Board at its March 17, 2014 meeting, with such final changes as are approved by the Chair of the Board of Selectmen in her reasonable discretion in consultation with the Town Manager and town counsel, concerning a number of other issues arising out of the decision to fully regionalize the public schools in the Town.
- 4. To authorize the Chair of the Board of Selectmen to execute the MOU on behalf of the Board of Selectmen.
- 5. Subject to any necessary approvals by Town Meeting, to authorize the Town Manager to take all actions on behalf of the Town that are reasonably necessary, in the judgment of the Town Manager, to complete the conveyance of the Property in accordance with the Agreement and the applicable Town Meeting votes, including without limitation executing all deeds,

easements, a bill of sale, assignments of contracts, closing forms, closing documents, and settlement statements.

ACTON BOARD OF SELECTMEN

Janet K. Adachi, Chair	David Glough
Michael Gowing, Vice-Chair	John Solder Sum
KZ 5. 9Z Katie Green, Clerk	-

Exhibit V

Authorizing Vote of Acton Public School Committee

RECORD OF VOTE OF THE ACTON PUBLIC SCHOOL COMMITTEE

April 3, 2014

At a duly called public meeting of the Acton Public School Committee on April 3, 2014, the Committee voted as follows:

- 1. To approve that certain intermunicipal Agreement (the "<u>Agreement</u>") between the Acton-Boxborough Regional School District (the "<u>District</u>") and the Town of Acton (the "<u>Town</u>"), with its Exhibits, in the form presented to the Committee at its April 3, 2014 meeting.
- 2. To authorize the Chair of the Committee to execute the Agreement on behalf of the Committee.
- 3. To approve that certain Memorandum of Understanding (the "MOU") between the District and the Town in the form presented to the Committee at its April 3, 2014 meeting.
- 4. To authorize the Chair of the Committee to execute the MOU on behalf of the Committee.
- 5. To authorize the Superintendent of Schools to take all actions on behalf of the Committee that are reasonably necessary, in the judgment of the Superintendent of Schools, to complete the acquisition of various properties and the conveyance of various easements in accordance with the Agreement, including without limitation executing all deeds, easements, a bill of sale, assignments of contracts, closing forms, closing documents, and settlement statements.

ACTON PUBLIC SCHOOL COMMITTEE			