

NET ENERGY BILLING CREDITS AGREEMENT

This Net Energy Billing Credits Agreement (“*Agreement*”) is entered into as of _____, 2020 (the “*Effective Date*”) and is by and between **Encore Redevelopment, LLC dba Encore Renewable Energy** as a seller (the “*Seller*”), and the **Town of Cape Elizabeth**, a municipality in the State of Maine (“*Buyer*”). In this Agreement, Sellers and Buyer are sometimes referred to individually as a “*Party*” and collectively as the “*Parties.*”

RECITALS

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

WHEREAS, Seller proposes to finance, install, own, operate and maintain one or more Distributed Generation Resource(s) (such facilities, collectively, the “*Distributed Generation Resources*”);

WHEREAS, the Distributed Generation Resources are each expected to qualify for Net Energy Billing pursuant 35-A MRSA 3209-B and the customer net energy billing rules promulgated by the Maine Public Utilities Commission (“MPUC”) 65-407 C.M.R. ch. 313 and will, therefore, generate Net Energy Billing Credits for MWh of electricity generated and delivered to the grid by the Distributed Generation Resources; and

WHEREAS, Seller desires to sell and deliver to Buyer, and Buyer desires to purchase and receive from Seller, the Net Energy Billing Credits generated by the Distributed Generation Resources during the Term, subject to the terms and conditions, and at the prices, set forth in this Agreement.

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

ARTICLE I DEFINITIONS

When used in this Agreement, the following terms shall have the meanings given below, unless a different meaning is expressed or clearly indicated by the context. Words defined in this Article 1 which are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

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

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

“Commercial Operations Date” means the latter of (i) the date on which each Distributed Generating Resource generates electric energy on a commercial basis, and (ii) the date that interconnection of the Distributed Generation Resource to the local electrical distribution system has been authorized and is functioning with the LDC.

“Confidential Information” means all written information exchanged between the Parties which contains proprietary business or confidential information of a Party and is clearly marked, or designated as “confidential” by such Party in writing. The following exceptions, however, do not constitute Confidential Information for purposes of this Agreement and as to this Agreement itself: (a) information that is or becomes generally available to the public other than as a result of a disclosure by either Party in violation of this Agreement; (b) information that was already known by the receiving Party on a non-confidential basis prior to this Agreement; (c) information that becomes available to receiving Party from a source other than the disclosing Party if such source was not subject to any prohibition against disclosing the information to such Party under an agreement with the disclosing Party; (d) information a Party is required to disclose in connection with any administrative or regulatory approval or filing process in connection with the conduct of its business or in accordance with any statute or regulations; (e) information disclosed as part of a public proceeding or meeting of the Buyer’s governing or legislative body that is held to authorize the Buyer to enter into this Agreement; (f) information disclosed pursuant to any applicable law, rule or regulation requiring such disclosure, or as compelled by legal process including, but not limited to any “public records”, the Maine Freedom of Access Law, or “freedom of information” request or pursuant to the order or requirement of a court, administrative agency, or other Governmental Authority and (g) information that is disclosed by the receiving Party with the prior written permission of the disclosing Party. Notwithstanding anything to the contrary in this section, Seller acknowledges and agrees that Buyer is subject to Maine’s Freedom of Access Law and that Buyer will disclose any information in its custody or control if Buyer determines that is required by law to do so.

“Distributed Generation Resource” means the solar (PV) power electrical generation facilities, to be constructed owned, operated and maintained by Seller, which qualifies for Net Energy Billing, together with all appurtenant facilities required to interconnect such Distributed Generation Resource to the local electric distribution system, as described in Exhibit D, attached hereto.

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

“Environmental Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the Distributed Generation Resource, the production of electrical energy from the Distributed Generation Resource and its displacement of conventional energy generation, including (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon

monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Certificates (RECs) issued by the NEPOOL Generation Information System (GIS). Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Tax Attributes. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, investment credits, emissions allowances, green tags, tradeable renewable credits and Green-e® products.

“Force Majeure” means any cause not within the reasonable control of the affected Party which precludes that Party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God; hurricanes or tornados; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes; lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any Governmental Authority acting in its regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by Buyer may not be asserted as an event of *Force Majeure* by Buyer where Buyer is the Governmental Authority; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances or explosions. A Party may not assert an event of *Force Majeure* to excuse it from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of either Party general economic or energy market conditions or acts, failures to act, or orders of any Governmental Authority related to 35-A M.R.S. § 3209-B, the Net Energy Billing Regulations, Governmental Charges or federal, state or local taxes shall not constitute an event of Force Majeure.

“Generation Contingent” means that Seller's failure to deliver is excused if the Distributed Generation Resources for any reason do not generate sufficient energy necessary to deliver Net Energy Billing Credits hereunder. In such an event, Seller shall not be liable to Buyer for any damages.

“Governmental Authority” means any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity.

“Governmental Charges” means all applicable federal, state and local taxes (other than taxes based on income or net worth, but including, without limitation, sales, use, gross receipts or similar taxes), governmental charges, emission allowance costs, duties, tariffs, levies, licenses,

fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, the LDC, or other similar entity, on or with respect to the Net Energy Billing Credits.

“Interconnection Agreement” shall mean the Interconnection Service Agreement(s) entered into with the LDC, each of which authorizes the interconnection of the respective Distributed Generation Resource with the local electric distribution system.

“Interest Rate” means 200 basis points above the prime rate as published in the Wall Street Journal, provided, however that the interest shall not exceed the maximum rate permitted by law.

“LDC” means the local electric distribution company.

“Lender” means the entity or person(s) providing financing to Seller in connection with the Distributed Generation Resources.

“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 the generation attributes of electricity generated within New England.

“NEPOOL GIS Certificate” means an electronic record produced by the NEPOOL GIS that identifies the relevant generation attributes of each MWh accounted for in the NEPOOL GIS.

“NEPOOL GIS Operating Rules” means the NEPOOL GIS Operating Rules, effective January 1, 2020, as may be amended from time to time. Capitalized terms used but not defined in this Agreement shall have the meanings set forth in the NEPOOL GIS Operating Rules.

“Net Energy Billing” shall have the meaning set forth in 35-A M.R.S. §3209-B (1) (D) and as set forth in Chapter 313 of the MPUC rules, 65-407 C.M.R. ch. 313.

“Net Energy Billing Credits” means those bill credits as set forth in 35-A M.R.S. §3209-B (5) and as set forth in Chapter 313 of the MPUC customer net energy billing rules 65-407 C.M.R. ch. 313, §3(K)(1).

“Net Energy Billing Regulations” are the Maine net energy billing statute, 35-A MRSA §3209-B and the MPUC customer net energy billing rules, 65-407 C.M.R. ch. 313.

“Renewable Energy Certificate” or **“REC”** means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a megawatt hour (MWh) from a renewable energy source by a

renewable energy project, and excluding, for the avoidance of doubt, any Tax Attributes and the Net Energy Billing Credits.

“**Tariff**” means the LDC’s tariff for interconnection for Commercial or Institutional Distributed Generation Resources and Net Energy Billing services, as approved by the MPUC, together with any subsequent amendments and approvals thereto.

“**Tax Attributes**” means the investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of the Distributed Generation Resources or the output generated by the Distributed Generation Resources (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation.)

ARTICLE II TERM

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

2.2 **Early Termination.** The Buyer may terminate this Agreement as to a Distributed Generation Resource without penalty or any liability (a) prior to the Commercial Operations Date if such Distributed Generation Resource has not achieved commercial operation within twenty-four (24) months of the Effective Date, except that the twenty-four (24) month time period shall be extended day-for-day for the duration of any period of Force Majeure established by Seller in accordance with Section 8.2 or by delays caused by the LDC in approving the Interconnection Agreement or (b) after the Commercial Operations Date if over any consecutive twelve month period, such Distributed Generation Resource generates less than sixty percent (60%) of their expected Energy over a period of twelve (12) consecutive months. (For avoidance of doubt, for this Section 2.2, the expected Energy for each 12-month period shall be as set forth in Exhibit C, attached hereto.). In the case of termination pursuant to this Section 2.2, the Buyer shall give the Seller sixty (60) days prior written notice, and this Agreement shall terminate as to that Distributed Generation Resource without further liability of the Seller to the Buyer and of the Buyer to the Seller, provided that the Buyer and Seller shall not be released from any payment or other obligations arising under this Agreement prior to such termination.

ARTICLE III FACILITY OWNERSHIP AND OPERATION

3.1 **Title.** Title to each Distributed Generation Resource and all generation capacity credits and Tax Attributes produced or associated with each Distributed Generation Resource shall be

with the Seller. Title to the Percentage of Environmental Attributes produced or associated with each Distributed Generation Resource shall also be with the Seller.

3.2 Notice of Commercial Operations Date. Subject to the provisions of this Agreement, Seller shall promptly notify Buyer in writing when each Distributed Generation Resource has achieved the Commercial Operations Date.

3.3 Seller's Operation of Facilities. Seller shall install, operate and maintain each Distributed Generation Resource in material accordance with all Applicable Legal Requirements, all equipment manufacturers' guidelines and recommendations, and pursuant to widely accepted best practices in the industry and shall maintain such documents and records necessary to confirm Seller's installation, operation and maintenance of the Distributed Generation Resources in material accordance with such standards.

3.4 Seller's Obligation To Maintain Facilities; Insurance. Seller shall maintain the Distributed Generation Resources and the individual components thereof in good working order at all times during the Term of this Agreement, subject to reasonable time allowed for maintenance, repair and event(s) of Force Majeure. Seller shall carry insurance coverage in an amount reasonably expected to repair or replace the Distributed Generation Resources if damaged, or in an amount as required by a Lender, at Seller's discretion. For the duration of the Agreement, Seller shall carry all insurance required by Applicable Legal Requirements and Commercial General Liability Insurance, naming Buyer as an additional insured, including coverage by an endorsement or otherwise for Seller's defense and indemnification obligations under the Agreement, with per occurrence limits of not less than one million dollars (\$1,000,000).

3.5 Seller's Performance Guaranty. Seller shall be responsible for construction, operation and maintenance of each Distributed Generation Resource.

- (i) Over each three-year period (the first three-year period ending on the third anniversary of the Commercial Operations Date, and each successive three-year period thereafter), should the Distributed Generation resource generate less than eighty-five percent (85%) of the expected annual energy over that same period as described in Exhibit C ("Guaranteed Three-Year Generation"), then upon request from Buyer, Seller shall credit Buyer for the difference between the cost of the energy purchased from the LDC during that time and the cost of the credits that would have been purchased from Seller at the price shown in Exhibit B during that same period. The credit from the Seller shall be in the form of a monetary credit to the Buyer against the next month's Payment to Seller.

ARTICLE IV PURCHASE AND SALE OF NET ENERGY BILLING CREDITS

4.1 Sale and Purchase of Net Energy Billing Credits. Commencing on the Commercial Operations Date, on a monthly basis Seller agrees to sell to Buyer, and Buyer agrees to purchase

and accept all of Seller's right, title and interest to 100% (the "Percentage") of the Net Energy Billing Credits generated by the Distributed Generation Resource, free and clear of all claims, liens, security interests and encumbrances of any kind, nature and description. Seller's obligations under this Section 4.1 are Generation Contingent, but this shall not be construed as a waiver of the early termination provisions under Section 2.2.

4.2 Allocation. To facilitate delivery of the Net Energy Billing Credits purchased and sold pursuant to Section 4.1, Seller shall request (through completion of the applicable Exhibit 1 – Commercial or Institutional Customer Allocation to the Commercial or Institutional Customer of Shared Financial Interest Customers Tariff Rate Agreement between the LDC and Seller) that the LDC allocate the quantity of Net Energy Billing Credits specified in Section 4.1 to Buyer's customer account(s), as further set forth in Exhibit A, "Buyer's Designation of Customer Accounts", attached hereto and incorporated herein. Buyer understands that the Net Energy Billing Credits received by Buyer for a particular month will be reflected on Buyer's statement from the LDC as a monetary credit amount and not as an electricity quantity; and that such credit will be reflected on Buyer's monthly invoice according to the LDC's billing cycle, which may be approximately one (1) month after the Net Energy Billing Credits are generated by the Distributed Generation Resources.

4.3 Payment. For each month of the Term, the payment that Buyer shall make to Seller for the purchase of the Percentage of Net Energy Billing Credits (the "**Payment**") shall be determined by multiplying (a) the rate per MWh set forth in Exhibit B, attached hereto and incorporated herein, by (b) the MWhs generated and delivered to the grid by the Distributed Generation Resource as measured by the LDC that are included in the calculation of the Net Energy Billing Credits allocated to Buyer's customer account(s) for that month.

4.4 Buyer's Purchase Contingent on Allocation of Credits by LDC. The Parties acknowledge and agree that Buyer's agreement to purchase Net Energy Billing Credits from Seller is contingent upon and subject to the LDC's acceptance of and allocation of such Net Energy Billing Credits to Buyer's customer account with LDC as set forth in Section 4.2 herein. During the Term of this Agreement, if for any reason the LDC refuses to allocate a portion or all of the Net Energy Billing Credits to Buyer's customer accounts, Buyer's obligation to purchase such Net Energy Billing Credits shall be unenforceable and void as to the affected Net Energy Billing Credits, and Seller shall promptly refund to Buyer the Payment by Buyer for any such Net Energy Billing Credits which the LDC refused to credit to Buyer's customer accounts.

4.5 Title To Net Energy Billing Credits. Title to the Net Energy Billing Credits will pass from Seller to Buyer upon the LDC's allocation of such Net Energy Billing Credits to Buyer's customer account(s) by the LDC.

4.6 Non-Exclusive Agreement. Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge and agree that (a) Buyer's agreement to purchase Net Energy Billing Credits from Seller is not exclusive, and Buyer shall have the right and ability to enter into agreements with other parties to purchase additional Net Energy Billing Credits and/or RECs, subject to all Applicable Legal Requirements, and (b) Seller's agreement to sell Net Energy

Billing Credits to Buyer is not exclusive, and Seller shall have the right and ability to enter into agreements with other parties to sell additional Net Energy Billing Credits and/or RECs, subject to all Applicable Legal Requirements.

4.7 Governmental Charges.

a. Seller is responsible for any Governmental Charges currently attributable to the sale of Net Energy Billing Credits to Buyer, irrespective of whether imposed before, upon or after the allocation and delivery of Net Energy Billing Credits to Buyer. Other than the Payment set forth in Section 4.3, Buyer shall not be responsible for any taxes, Government Charges, costs, duties, tariffs, licenses, fees, permits, assessments, adders or surcharges, imposed or authorized by a Governmental Authority, LDC, or similar entity, that are associated with the Distributed Generation Resource, including but not limited to any charges or costs associated with metering the generation from the Distributed Generation Resource or settling such generation in the ISO-NE wholesale markets.

b. The Parties shall use reasonable efforts to administer this Agreement and implement its provisions so as to minimize Governmental Charges to the extent permitted by law. In the event any of the sales of Net Energy Billing Credits hereunder are to be exempted from or not subject to one or more Governmental Charges, the Party claiming such exemption shall, upon a Party's written request therefore, provide the requesting Party with all necessary documentation to evidence such exemption or exclusion in a timely manner. If any sales or other tax is applicable to this Agreement in the future, Seller shall cooperate with Buyer to ensure that Buyer receives the full benefit of Buyer's tax exempt status.

ARTICLE V PAYMENT

5.1 Payment. During each monthly LDC billing cycle, Seller shall invoice Buyer for the Payment for the Net Energy Billing Credits allocated to Buyer's designated account(s) with the LDC during the prior monthly LDC billing cycle (the "**Invoice**"). Buyer shall either promptly provide its monthly LDC bill to Seller, or, shall allow Seller to access Buyer's monthly bill directly with the LDC, at Buyer's discretion. Subject to the provisions of Section 4.4, Buyer shall pay all invoiced amounts owed to Seller by a mutually agreeable method, even if the amount of Buyer's LDC bills is not sufficient to utilize all Net Energy Billing Credits allocated to Buyer. Any undisputed payment not made to Seller within thirty (30) days of the Buyer's receipt of a proper Invoice shall bear interest from the date on which such payment was required to have been made through and including the date such payment is actually received by Seller. Such interest shall accrue at a rate equal to the Interest Rate.

5.2 Records and Audits. Each Party shall keep, for a period of not less than seven (7) years after the expiration or termination of any transaction, records sufficient to permit verification of the accuracy of billing statements, Invoices, charges, computations and payments for such transaction. During such period each Party may, at its sole cost and expense, and upon reasonable notice to the other Party, examine the other Party's records pertaining to such transactions during the other Party's normal business hours. Seller shall, at Buyer's request,

such request to not occur more than annually, provide documentation itemized by month of the amount of total electricity generated by the Distributed Generation Resources and delivered to the grid and/or the calculation of the Net Energy Billing Credits.

5.3 Dispute. If a Party, in good faith, disputes an amount owed or paid as provided in this Agreement, the disputing Party shall immediately notify the other Party of the basis for the dispute and the obligated Party shall pay the undisputed portion of such Invoice no later than the due date. Upon resolution of the dispute, any required payment shall be made within seven (7) Business Days of such resolution along with the interest accrued at the Interest Rate, from and including the due date through and including the date such payment is actually received by Seller. Any overpayments shall be returned by the receiving Party upon request or deducted from subsequent payments at the option of the overpaying Party with interest accrued at the Interest Rate from the date payment was made to the date payment is returned by the receiving Party. The Parties shall only be entitled to dispute an amount owed or paid within twenty-four (24) calendar months from the date of issuance of such Invoice. If the Parties are unable to resolve a payment dispute, the Parties shall follow the procedure set forth in Section 12.5.

ARTICLE VI OBLIGATIONS OF THE PARTIES

6.1 Net Energy Billing.

a. Each Party's obligations under this Agreement are subject to each Distributed Generation Resource qualifying for Net Energy Billing pursuant to the Net Energy Billing Regulations. If, within twenty-four (24) months from the Effective Date, a Distributed Generation Resource does not so qualify, this Agreement shall automatically terminate with regards to that Distributed Generation Resource without further liability of the Seller to the Buyer and of the Buyer to Seller, provided that the Buyer and Seller shall not be released from any payment or other obligations arising under this Agreement prior to such termination.

b. Subject to the provisions of this Agreement, each Party agrees to take all reasonable measures with respect to which it has legal capacity to facilitate and expedite the review of all approvals necessary for the Distributed Generation Resources to be eligible for and participate in Net Energy Billing and issuance, qualification, certification, and registration of RECs from the Distributed Generation Resources within the NEPOOL GIS. Seller shall apply for and procure the issuance, registration and certification of RECs and any other Environmental Attributes for all MWh generated and delivered to the grid by the Distributed Generation Resources under the NEPOOL GIS Operating Rules.

c. So long as any such amendment will materially benefit a Party without material detriment to the other Party and shall not increase any economic burden to the other Party and is otherwise permitted by law, the Parties commit to each other in good faith to make commercially reasonable efforts to fully cooperate and assist each other to amend this Agreement to conform to Net Energy Billing rule(s) or regulation(s) and NEPOOL GIS qualification and ensure that the Distributed Generation Resource is eligible for Net Energy Billing and REC issuance under the GIS rules.

d. Upon implementation by the MPUC or other Governmental Authority of any rule or regulation that may affect any provision of this Agreement, in particular any rule or regulation regarding the provision of or eligibility for Net Energy Billing, the Parties shall negotiate in good faith to amend this Agreement to conform to such rule(s) and/or regulation(s) to the greatest extent possible, and shall use best efforts to conform such amendment to the original intent of this Agreement and to do so in a timely fashion.

6.2 Seller's Obligations.

a. Seller shall maintain accurate operating and other records and all other data for the purposes of proper administration of this Agreement, including such records as may be required of Seller (and in the form required) by any Governmental Authority or the LDC.

b. Seller shall file with the LDC in a timely manner the initial Schedule Z (as set forth in Exhibit A) and any modifications to that Schedule Z or any subsequent Schedule Z as directed by Buyer in accordance with this Agreement and Applicable Legal Requirements.

c. Seller shall perform its obligations under this Agreement in full compliance with the Applicable Legal Requirements.

6.3 Buyer's Obligations.

a. Buyer shall perform its obligations under this Agreement in full compliance with the Applicable Legal Requirements.

b. Buyer shall reasonably cooperate with Seller so that Seller can meet its obligations under this Agreement, which cooperation shall include, but not be limited to, timely providing (or to the extent possible, reasonably facilitating that the LDC timely provides) to Seller full and complete information regarding the value of any Net Energy Billing Credits that have been allocated to Buyer's customer account(s) by the LDC.

ARTICLE VII REPRESENTATIONS AND WARRANTIES; ACKNOWLEDGEMENTS; BUYER'S COVENANTS

7.1 Representations and Warranties. As of the Effective Date, each Party represents and warrants to the other Party as follows.

a. The Party is duly organized, validly existing, and in good standing under the laws of Maine.

b. The Party has full legal capacity to enter into and perform this Agreement.

c. The execution, delivery and performance of the Agreement and the consummation of the transaction hereunder have been duly authorized, and each person executing the Agreement on behalf of the Party has full authority to do so and to fully bind the Party.

d. The execution and delivery of this Agreement and the performance of the obligations hereunder will not violate or conflict with any Applicable Legal Requirement, any order of any court or other agency of government, or any provision of any agreement or other instrument to which the Party is bound.

e. There is no litigation, arbitration, administrative proceeding, or bankruptcy proceeding pending or being contemplated by the Party, or to the Party's knowledge, threatened against the Party, that would materially and adversely affect the validity or enforceability of this Agreement or the Party's ability to carry out the Party's obligations hereunder.

7.2 Forward Contract; Bankruptcy Code. Seller asserts that this Agreement and the transactions contemplated hereunder are a "forward contract" within the meaning of the United States Bankruptcy Code, and that Seller is a "forward contract merchant" within the meaning of the United States Bankruptcy Code. The Seller further assert that Seller is not a "utility", as such term is used in Section 366 of the United States Bankruptcy Code, and Buyer agrees to waive and not to assert the applicability of the provisions of Section 366 in any bankruptcy proceeding wherein Buyer is a debtor.

ARTICLE VIII TERMINATION/DEFAULT/REMEDIES

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

a. The Party fails to make any material payment due under this Agreement within thirty (30) days after such payment is due unless the specific amount of the payment not made is being disputed and such failure continues for a period of fifteen (15) Business Days after receipt of written notice of such nonpayment.

b. The Party fails to perform or comply with any material covenant or agreement set forth in this Agreement and such failure continues for a period of thirty (30) days after receipt of written notice thereof from another Party; provided, however, if the defaulting Party proceeds with due diligence during such thirty (30) day period to cure such breach and is unable by reason of the nature of the work involved using commercially reasonable efforts to cure the same within the said thirty (30) days, the defaulting Party's time to do so shall be extended by the time reasonably necessary to cure the same, provided that such extended cure period shall be no longer than ninety (90) days and further provided that the cure periods in this section shall not apply to and do not constitute a waiver of the early termination provision in Section 2.2 of this Agreement.

c. Fraud or intentional material misrepresentation by the Party with respect to any of the covenants or agreements or representations and warranties of this Agreement.

d. The Party: (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails (or admits in writing its inability) generally to pay its debts as they become due; (iii) except for assignments made

pursuant to Section 10.1 (regarding financing), makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor's rights, or a petition is presented for its winding-up, reorganization or liquidation, which proceeding or petition is not dismissed, stayed or vacated within twenty (20) Business Days thereafter; (v) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights; (vi) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) except for exercise of possession through assignments made pursuant to Section 10.1 (regarding financing), has a secured party take possession of all or substantially all of its assets, a Distributed Generation Resource, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets; (viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

8.2 Force Majeure. Except as specifically provided herein, if by reason of *Force Majeure* which remains in effect for a period of at least six (6) consecutive months, a Party is unable to carry out, either in whole or in part, any of its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, as soon as reasonably practicable but in no event longer than two (2) weeks after the occurrence of the *Force Majeure* event, gives the other Party hereto written notice describing the particulars of the occurrence and the anticipated period and extent of delay or interruption of such Party's performance hereunder; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the *Force Majeure* event; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use commercially reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations.

8.3 Termination for Default.

a. Upon the occurrence of an Event of Default, the non-defaulting Party at any time thereafter may give written notice to the defaulting Party specifying such Event of Default and such notice may state that this Agreement and the Term shall expire and terminate on a date specified in such notice, which shall be at least thirty (30) Business Days after the giving of such notice, and upon any termination date specified in such notice, this Agreement shall terminate as of the date set forth in the Notice.

b. In the event this Agreement is terminated as a result of an Event of Default, (i) Seller shall have no further obligation to deliver, and Buyer shall have no further obligation to purchase, any Net Energy Billing Credits from Seller, provided, however, that Buyer shall pay Seller for any Net Energy Billing Credits generated by Seller that have or may continue to be

allocated to Buyer by the LDC, and (ii) Seller shall notify the LDC immediately to stop any future Net Energy Billing Credits allocation to Buyer forthwith, and shall promptly provide a copy of such notification to Buyer.

ARTICLE IX REMEDIES AND LIMITATION OF LIABILITY

9.1 Remedies. Subject to the limitations set forth in this Agreement, each Party reserves and shall have all rights and remedies available to it at law or in equity with respect to the performance or non-performance or termination of the other Party hereto under this Agreement. Each Party agrees that it has a duty to mitigate damages that it may incur as a result of a Party's non-performance under this Agreement.

9.2 Limitation of Liability. WITH THE EXCEPTION OF SELLER'S OBLIGATIONS SET FORTH IN THE FOLLOWING SECTION 9.3, NO PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT OR PUNITIVE DAMAGES OF ANY CHARACTER, RESULTING FROM, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY INCIDENT TO ANY ACT OR OMISSION OF ANY OF THE PARTIES RELATED TO THE PROVISIONS OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE (EXCEPT GROSS NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY AT LAW OR EQUITY. FOR THE AVOIDANCE OF DOUBT, IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, THE OBLIGOR'S LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY.

9.3 Indemnification. Notwithstanding anything to the contrary in Section 9.2, Buyer shall not be responsible or liable for any personal injury or property damage caused by or occurring upon the Distributed Generation Resource, its site, or any individual component thereof. Seller shall defend, indemnify and hold harmless Buyer, its officers, directors, agents, and employees from and against any and all claims, demands, liens, lawsuits, judgments or actions of any nature that may be brought on account of the construction, installation, operation, maintenance, repair or replacement of the Distributed Generation Resource or any component thereof.

a. THIS DEFENSE AND INDEMNIFICATION OBLIGATION IS INTENDED TO WAIVE AS BETWEEN THE PARTIES ANY EXCLUSIVITY-OF-REMEDY DEFENSE OR EMPLOYER IMMUNITY PROVISIONS THAT MAY OTHERWISE BE AVAILABLE TO SELLER UNDER WORKERS' COMPENSATION OR SIMILAR LAWS.

b. **Nothing in the Agreement shall, nor is intended to, waive any defense, immunity or limitation of liability which may be available to Buyer or their respective officers, agents and employees, under the Maine Tort Claims Act or any other privileges and/or immunities provided by law.**

9.4 Waivers.

a. No Implied Waivers – Remedies Cumulative. No covenant or term under this Agreement shall be deemed to have been waived by a Party, unless such waiver shall be in writing and signed by the Party against whom it is to be enforced or such Party's duly authorized agent. Consent or approval of a Party to any act or matter must be in writing, shall apply only with respect to the particular act or matter in which such consent or approval is given, and shall not relieve any other Party from the obligation wherever required under this Agreement to obtain consent or approval for any other act or matter. The failure on one occasion of a Party to insist upon the strict performance of any one of the covenants or terms of this Agreement or to exercise any right, remedy or election herein contained or permitted by law shall not constitute or be construed as a waiver or relinquishment of any future performance of such covenant or term, right, remedy or election, but the same shall continue and remain in full force and effect. Any right or remedy of a Party herein specified or any other right or remedy that a Party may have at law, in equity or otherwise upon breach of any covenant or terms herein contained shall be a distinct, separate and cumulative right or remedy and no one of them, whether exercised or not, shall be deemed to be in exclusion of any other.

b. Acceptance of Payment. Neither receipt nor acceptance by a Party of any payment due herein, nor payment of same by a Party, shall be deemed to be a waiver of any default under the covenants or terms of this Agreement, or of any right or defense that a Party may be entitled to exercise hereunder.

ARTICLE X ASSIGNMENT

10.1 Prior Written Consent. No Party shall assign or in any manner transfer this Agreement or any part thereof without the prior written consent of the other Party, which consent may not be unreasonably conditioned, withheld or delayed, except that no prior written consent to Buyer shall be required in connection with any assignment by a Seller in connection with the financing of, or tax equity investment in, a Distributed Generation Resource.

10.2 Collateral Assignment; Financing Provisions.

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

i. Consent to Collateral Assignment. Buyer hereby consents to both the sale of the Distributed Generation Resources to a Lender and the collateral assignment for the financing of the Seller's right, title and interest in and to this Agreement, provided that Lender (or its assignee) is of equivalent or greater creditworthiness and experience than Seller, and Lender (or its assignee) agrees to assume all of Seller's rights under this Agreement in the event that Lender exercises its remedies such that the Distributed Generation Resource is sold to Lender.

ii. Rights of Lender. Notwithstanding any contrary term of this Agreement:

(A) Step-In Rights. After notice to Buyer that Seller has defaulted under the financing, the Lender, as owner of the Distributed Generation Resources, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Seller, any and all rights and remedies of Seller under this Agreement in accordance with the terms of this Agreement. The Lender shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Agreement and the Distributed Generation Resources. Seller hereby authorizes Buyer to rely on any such notice from Lender, to accept performance of any such rights by Lender and to make payments of amounts due hereunder to Lender, and Seller releases and discharges Buyer of, and from any liability to Lender on account of any such payments;

(B) Exercise of Remedies. Upon the exercise of remedies, including any sale of the Distributed Generation Resource by the Lender, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Seller to the Lender (or any assignee of the Lender as defined below) in lieu thereof, the Lender shall give notice to Buyer of the transferee or assignee of this Agreement. Except as set forth in Article 8, any such exercise of remedies shall not constitute a default under this Agreement;

(D) Cure of Bankruptcy Rejection. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Seller under the United States Bankruptcy Code, at the request of Lender made within ninety (90) days of such termination or rejection, Buyer may, in Buyer's complete discretion, elect to enter into a new agreement with Lender or its assignee having substantially the same terms and conditions as this Agreement.

(iii) Right to Cure.

(A) Cure Period. Buyer will not exercise any right to terminate or suspend this Agreement unless it shall have given the Lender prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Lender shall not have caused to be cured the condition giving rise to the right of termination or

suspension within thirty (30) days after expiration of the periods provided for in this Agreement; provided that if Seller's default reasonably cannot be cured by the Lender within such period and the Lender commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional ninety (90) days. The Parties' respective obligations will otherwise remain in effect during any cure period. In the event that Lender does not effectuate cure within the time periods specified herein, Buyer shall not be obligated to accept later cure of any default hereunder, but may, at any time after expiration of such periods, exercise any termination rights available under this Agreement.

(B) Continuation of Agreement. If the Lender or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Lender, shall acquire title to or control by receivership or otherwise, of Seller's assets and shall, within the time periods described in Section 10.2(a)(iii)(A), cure all material defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement, then the Lender or its assignee shall no longer be in default under this Agreement, and provided that after such change in title or control Buyer shall continue to receive all the Net Energy Billing Credits due to it as set forth in this Agreement, this Agreement shall continue in full force and effect as a direct contract between the Lender or its assignee, as Seller, and Buyer, provided that Buyer shall not be obligated to pay any sums to any assignee of Lender until Buyer has received notice from such assignee that it has succeeded to such interest.

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

(c) Entry to Consent to Assignment. Buyer agrees to execute such consents to assignment, estoppel certificate or acknowledgements as may be reasonably requested by Seller and/or Lender in connection with the financing or sale of the Distributed Generation Resources, pursuant to this Section 10.2 and which do not change or alter any material term of this Agreement, provided that such assignment satisfies the provisions of Section 10.2.

ARTICLE XI AMENDMENT FOR FINANCING

11.1 Obligation to Modify the Agreement for Financing. If a Lender requires this Agreement to be modified, or if a Seller, in good faith, requires the Agreement to be modified in order to finance, develop or operate a Distributed Generation Resource, and in each case the modifications are reasonable and do not materially impact the terms of the Agreement, and shall not increase any economic burden on the Buyer, the Parties shall enter into negotiations to amend this Agreement to materially conform to such requirements and to the original intent of this Agreement in a timely manner.

**ARTICLE XII
MISCELLANEOUS**

12.1 Notices. All notices and other formal communications which a Party may give to the other under or in connection with this Agreement shall be in writing (except where expressly provided for otherwise), shall be effective upon receipt, and shall be sent by any of the following methods: hand delivery; reputable overnight courier; certified mail, return receipt requested; and email with receipt confirmed by email or in writing by recipient, and shall be sent to the following addresses:

If to Seller:

Encore Renewable Energy
110 Main Street, Suite 2E
Burlington, VT 05401
Phone: 802.861.3023
Email: phillip@encore.eco

If to Buyer:

The Town of Cape Elizabeth

Attn: Town Manager

Address: 320 Ocean House Road
Cape Elizabeth, ME 04107

Phone: (207) 799-5251
Email: matthew.sturgis@capeelizabeth.org

With a copy to:

Monaghan Leahy, LLP
Address: 95 Exchange Street
P.O. Box 7046
Portland, ME 04112-7046

Phone: (207) 774-3906
Email: mhill@monaghanleahy.com

Any Party may change its address and contact person for the purposes of this Section 12.1 by giving notice thereof in the manner required herein.

12.2 Confidentiality. Except as provided in this Section 12.2, no Party shall publish, disclose, or otherwise divulge Confidential Information to any person at any time during or after the term of this Agreement, without the other Party's prior express written consent. Notwithstanding anything to the contrary in this section, Seller acknowledges and agrees that Buyer is subject to Maine's Freedom of Access Law and that Buyer will disclose any information in its custody or control if Buyer determines that is required by law to do so.

a. Each Party shall permit knowledge of and access to Confidential Information only to those of its affiliates, attorneys, accountants, representatives, actual or potential Lenders (with respect to Seller), advisors, consultants, agents, officers, directors, members, and employees who have a need to know related to this Agreement.

b. If required by any law, statute, ordinance, decision, or regulation or pursuant to any order issued by a court, governmental agency or authority having jurisdiction over a Party, that Party may release or disclose Confidential Information, or a portion thereof, as required by applicable law, statute, ordinance, decision, order or regulation, and a Party may disclose Confidential Information to accountants in connection with audits.

12.3 Severability. If any article, section, phrase or portion of this Agreement is, for any reason, held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such article, section, phrase, or portion so adjudged will be deemed separate, severable and independent and the remainder of this Agreement will be and remain in full force and effect and will not be invalidated or rendered illegal or unenforceable or otherwise affected by such adjudication, provided the basic purpose of this Agreement and the benefits to the Parties are not substantially impaired, and provided further, however, that the Parties shall enter into negotiations concerning the terms affected by such decisions for the purpose of achieving conformity with requirements of any Applicable Legal Requirements and the intent of the Parties.

12.4 Governing Law. This Agreement and the rights and duties of the Parties hereunder shall be governed by and shall be construed, enforced and performed in accordance with the laws of the State of Maine without regard to principles of conflicts of law. If, due to any change in

Applicable Legal Requirements or the interpretation thereof by any court of law or other governing body having jurisdiction subsequent to the Effective Date, performance of any provision of this Agreement or any transaction contemplated hereby shall become impracticable or impossible, the Parties hereto shall use their best efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such provision.

12.5 Dispute Resolution. Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Section 12.5 shall be the exclusive mechanism to resolve disputes arising under or related to this Agreement. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this Agreement.

a. Any dispute that arises under or with respect to this Agreement that cannot be resolved shall in the first instance be the subject of informal negotiations between respective executive officers of each Party. The dispute shall be considered to have arisen when one Party sends the other Party a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time period is modified by written agreement of the Parties.

b. In the event that the Parties cannot timely resolve a dispute, by informal negotiations, the sole venue for judicial enforcement shall be the courts of Maine. Each Party hereby consents to the jurisdiction of such courts, and to service of process in the State of Maine in respect of actions, suits or proceedings arising out of or in connection with this Agreement or the transactions contemplated by this Agreement.

c. Notwithstanding the foregoing, injunctive relief from such court may be sought without resorting to a form of alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this Agreement.

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

12.7 Press Releases and Use of Buyer's Name and Logo.

a. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, or the sale or purchase of Net Energy Billing Credits. Each Party shall have the right to approve (with such approval not to be unreasonably withheld, conditioned or delayed) any publicity materials, press releases, or other public statements by another Party that refer to, or that describe, any aspect of this Agreement, or the sale or purchase of Net Energy Billing Credits. No such releases or other public statements (except for filings or other factual statements or releases as may be required by Applicable Legal Requirements) shall be made by any Party without the prior written consent of the other Party. No 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 Party,

provided that such consent may require the Parties to execute a separate trademark licensing agreement.

b. Seller shall not use Buyer's name or logo, or the logo of Buyer's affiliates, in any marketing materials or statements regarding this Agreement without prior written consent from Buyer.

12.8 No Joint Venture. Each Party will perform all obligations under this Agreement as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of each Party hereunder are individual and neither collective nor joint in nature.

12.9 Amendments; Binding Effect. This Agreement may not be amended, changed, modified, or altered unless such amendment, change, modification, or alteration is in writing and signed by each of the Parties to this Agreement or its respective successor in interest. This Agreement inures to the benefit of and is binding upon the Parties and each of their respective successors and permitted assigns.

12.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

12.11 Further Assurances. From time to time and at any time at and after the execution of this Agreement, each Party shall execute, acknowledge and deliver such documents and assurances, reasonably requested by the other and shall take any other action consistent with the terms of the Agreement that may be reasonably requested by the other for the purpose of effecting or confirming any of the transactions contemplated by this Agreement. No Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section.

12.12 Good Faith. All rights, duties and obligations established by this Agreement shall be exercised in good faith and in a commercially reasonable manner.

12.13 Survival. The provisions of Sections 3.1 (Title), 4.5 (Title to Net Energy Billing Credits), 5.1 (Payment), 5.3 (Dispute), 8.3 (Termination for Default), 9.1 (Remedies), 9.2 (Limitation of Liability), 9.3 (Indemnification), 9.4 (Waivers), and Article 12 (Miscellaneous), shall survive the expiration or earlier termination of this Agreement. The provisions of Section 5.2 (Records and Audits) shall survive the expiration or earlier termination of this Agreement for a period of seven (7) years.

12.14 No Third-Party Beneficiaries. Except as set forth in Section 10.2(b), this Agreement is intended solely for the benefit of the Parties hereto. Except as expressly set forth in this Agreement, nothing in this Agreement shall be construed to create any duty to or standard of care with reference to, or any liability to, or any benefit for, any person not a Party to this Agreement, except that this Section 12.14 shall not limit the rights of a Lender pursuant to Section 10.2.

[Signature page to follow.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

Town of Cape Elizabeth

By: _____
Name: Matthew Sturgis
Title: Town Manager

Encore Redevelopment, LLC

By: _____
Name: _____
Title: _____

List of Exhibits to Agreement

Exhibit A – Buyer’s Designation of Customer Accounts

Exhibit B – Price

Exhibit C – Expected Annual Energy

Exhibit D – Distributed Generation Resource(s) description(s)

NONAPPROPRIATION ADDENDUM (as Applicable)

HEALTH INDUSTRY ADDENDUM (as Applicable)

EXHIBIT A

BUYER'S DESIGNATION OF CUSTOMER ACCOUNTS

Buyer may in its sole discretion provide written notice to Seller to modify the list of accounts, providing that the Percentage as set forth in Section 4.1 does not change. Within fifteen (15) business days of Seller's receipt of such notification, Seller shall notify the LDC of such change and file modified schedules as required.

Buyer	Account Number	Net Metering Schedule Allocation
		%
		%
		%
		%
		%
		%
		%
		%
		%
	TOTAL	%

EXHIBIT B

PRICE

Year	\$/MWh
1	\$ 0.0879
2	\$ 0.0892
3	\$ 0.0906
4	\$ 0.0919
5	\$ 0.0933
6	\$ 0.0947
7	\$ 0.0961
8	\$ 0.0976
9	\$ 0.0990
10	\$ 0.1005
11	\$ 0.1020
12	\$ 0.1035
13	\$ 0.1051
14	\$ 0.1067
15	\$ 0.1083
16	\$ 0.1099
17	\$ 0.1115
18	\$ 0.1132
19	\$ 0.1149
20	\$ 0.1166

EXHIBIT C

Expected Annual ENERGY

	Project 1: Cape Elizabeth Landfill	
Year	Generation (MWh)	Guaranteed Three Year Generation (MWh)
1	1,483	
2	1,476	
3	1,469	3764
4	1,461	
5	1,454	
6	1,447	3708
7	1,439	
8	1,432	
9	1,425	3652
10	1,418	
11	1,411	
12	1,404	3598
13	1,397	
14	1,390	
15	1,383	3545
16	1,376	
17	1,369	
18	1,362	3491
19	1,355	
20	1,349	3456

Table will be updated within thirty (30) days of Commercial Operation in order to reflect the as-built system design and actual production estimates.

Exhibit D

DISTRIBUTED GENERATION RESOURCE DESCRIPTION(S)

At any time prior to the Commercial Operations Date of an individual Distributed Generation Resource, Seller may propose to Buyer the substitution of such Distributed Generation Resource with a different solar (PV) power electrical generation facility to be constructed, owned, operated and maintained by Seller, provided that the substitute facility satisfies the Net Energy Billing qualification requirement in Section 6.1(a).

Project Name	Cape Elizabeth Landfill	Project 2
Project Size	1.0 MW AC	__ MW AC
Service Territory	Central Maine Power	Central Maine Power
Service Load Zone	Maine	Maine
Project Coordinates		
Town	Cape Elizabeth, Maine	_____, Maine
Expected Generation MWh (Year 1)	1,483	