THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Town of Nantucket Municipal Aggregation Plan	)	D.P.U. 16-_____

PETITION FOR APPROVAL OF MUNICIPAL AGGREGATION PLAN

The Town of Nantucket (the "Town") respectfully requests approval from the Department of Public Utilities (the "Department"), pursuant to G.L. c. 164, § 134, of its Municipal Aggregation Plan ("Plan") (Exhibit 1).

In support of this Petition, the Town states the following:

1. The municipal aggregation program is designed to bring the benefits of low cost power, price stability, renewable energy, and increased supplier choice to the residents and businesses of Nantucket. The program will feature an optional green product and will strive to include RECs from local renewable resources. It will employ a procurement process designed to maximize savings and will provide a full set of consumer protections, including the right for any customer to opt out of the program at any time at no charge.

2. The Town formally initiated the process of aggregation through a vote of its Town Meeting on April 2, 2016 (Exhibit 1, Appendix A).

3. The Plan and the associated Competitive Electric Service Agreement ("ESA") (Exhibit 2) ensure that the program complies with all requirements of G.L. c. 164, § 134, including providing universal access and a reliable power supply and treating all customer classes equitably.

4. The Town consulted with the Department of Energy Resources ("DOER") in the development of the Plan, as documented in a letter from DOER dated June 8, 2016 (Exhibit 3).

5. The Town respectfully requests that the Department conduct its review of this petition expeditiously in order to allow the Town to proceed with implementation and maximize savings for eligible consumers. Municipal aggregators are required by their very nature to conduct their business openly and with full public participation. The Town requests a streamlined process consistent with other aggregation plan reviews, including a pubic hearing, discovery by Department staff, and an opportunity for interested persons to submit written comments.

6. The Town also requests a waiver, both for itself and for its competitive supplier, from the requirement to mail a quarterly information disclosure label to every customer. The requirement for quarterly distribution of the disclosure label is specified in 220 C.M.R. § 11.06(4)(c). The Department has determined that, for municipal aggregators, the distribution would normally be made by individual mailings to customers. City of Marlborough, D.T.E. 06-102, at 24. However, the Department may grant an exception to any provision of 220 C.M.R. 11.00 for good cause shown. 220 C.M.R. § 11.08. In support of its request for waiver, the Town states that quarterly mailings would be burdensome and expensive, raising the supply price for customers. Moreover, the Town will employ an alternative disclosure strategy that will provide the required information to customers as effectively as quarterly mailings. The alternative disclosure strategy will include

press releases, postings at Town Hall, and postings on the program website. The Department has granted similar waivers to other municipal aggregators using equivalent disclosure strategies. Cape Light Compact, D.T.E. 00-47, at 28; Town of Natick, D.P.U. 13-131, at 30; Town of Greenfield, D.P.U. 13-183, at 28-29.

WHEREFORE, the Petitioner hereby respectfully requests that the Department:

a) Adopt a streamlined review process;

b) Approve the Town's Municipal Aggregation Plan;

c) Approve the Town's request for waiver of the requirement of 220 C.M.R § 11.06(4)(c) to mail the quarterly disclosure label; and

d) Provide such other and further relief as may be necessary or appropriate.

Respectfully submitted,

TOWN OF NANTUCKET

By its attorney,

Paul W. Gromer
Paul W. Gromer, LLC
2 Oliver Street, 8th Floor
Boston, MA 02109
Tel: (617) 227-7024

Dated: June 21, 2016

Exhibit 1

Town of Nantucket

Municipal Aggregation Plan

June 16, 2016

The Town of Nantucket ("Town") developed this Aggregation Plan ("Plan") in compliance with Massachusetts law regarding public aggregation of electric consumers. It contains required information regarding the structure, operations, services, funding, and policies of the Town's Program.

The *Nantucket Power Choice* Program ("Program") is designed to aggregate over 10,000 local residential and business utility accounts to bring the benefits of low cost power, price stability, renewable energy, and increased supplier choice to the island. The Program is part of the Town of Nantucket's efforts to promote environmental sustainability and economic growth.

The Program was developed to introduce a new supply option to the island and to gain other favorable economic and non-economic terms in service contracts. While the Town does not purchase and resell power as part of this program, it represents local consumer interests in arranging the best contract terms for service. Through a vetted and transparent competitive bidding and negotiation process, the Town will develop a contract with a Competitive Supplier for a predictable price, over a fixed period of time. Eligible consumers are not required to participate in the Program and may opt-out or leave the Program at any time with no penalty.

I. Key Features

The key features of the Town's municipal aggregation program will include:

Price: The Town will secure its power supply by requesting competitive bids from the largest and most experienced power suppliers in the region. This competition will result in the best possible price.

Consumer protection: The Town's program will include strong consumer protections, including the ability for any customer to leave the standard product at any time with no penalty or fee. There will be no hidden charges of any kind.

Greener power cost effectively: The Town will seek to include more renewable energy in its power supply than is included in basic service, including from island renewable energy sources.

Product options: The Town will offer at least two options, a standard product and a greener product, giving customers a choice of environmental characteristics, terms of service, and price.

II. Procedural Requirements

The Municipal Aggregation Statute, G.L. c. 164, § 134, sets out the legal requirements for a municipal aggregation plan. Those requirements include procedural requirements, specified plan elements, and substantive requirements. The procedural requirements are discussed below, and the other requirements in the sections that follow.

1. Local Approval

The Municipal Aggregation Statute provides that a town may initiate the process to aggregate electrical load upon authorization by a majority vote of town meeting. The Town obtained such authorization by vote at its Annual Town Meeting held on April 2, 2016. A copy of the Town Meeting vote is attached as Exhibit A.

2. Consultation with the Department of Energy Resources

The aggregation statute also requires the Town to consult with the Department of Energy Resources ("DOER") in developing its aggregation plan. The Town submitted a draft of its Aggregation Plan to DOER and Town officials met with DOER to discuss that draft on *May 18, 2016*.

3. Citizen Review

The Town has made the Aggregation Plan available for review by its citizens at a public meeting of the Board of Selectmen on April 13, 2016. The draft Aggregation Plan was posted on the Town website with a twenty-three day comment period for the Town's electricity consumers to submit feedback.

III. Elements of the Plan

The Municipal Aggregation Statute requires that the Aggregation Plan contain the following elements:

- Organizational structure
- Program Operations
- Funding
- Details on rate setting and other costs to participants
- The method of entering and terminating agreements with other entities
- The rights and responsibilities of program participants
- The procedure for termination of the program

Each of those elements is discussed in turn below.

1. Organizational Structure

The Town's government is led by a five-person Board of Selectmen. The Board acts as the Town's Chief Executive Body, responsible for the general welfare of the community. The Town's Daily operations are overseen by a Town Manager.

The organizational structure of the aggregation program will be as follows:

Consumers: Consumers hold the ultimate authority over the Program and its functions. They elect the members of the Board of Selectmen and communicate with them directly regarding their objectives and concerns. Consumers also choose whether to participate in the program.

Board of Selectmen: The Board of Selectmen reviews the Aggregation Plan and may act on specific policy or program decisions, including issues raised to them by Consumers.

Town Manager: The Town Manager carries out the decisions and instructions of the Board of Selectmen.

Consultants: The Town's aggregation consulting team (hereinafter jointly referred to as "Consultant") will manage the aggregation under the Town Manager's direction and in cooperation and coordination with the Town's Energy Coordinator. Their responsibilities will include managing the supply procurement, developing and implementing the public education plan, interacting with the local distribution company, and monitoring the supply contract. Through a competitive procurement process, the Town has selected the team of Peregrine Energy Group and Bay State Consultants to provide these services for an initial term.

Competitive Supplier: The competitive supplier will provide power for the aggregation, provide customer support including staffing a toll-free number for customer questions, and fulfill other responsibilities as detailed in the Competitive Electric Service Agreement.

2. Operations

Following approval of the Plan by the Department of Public Utilities (DPU), the key operational steps will be:

a. Issue a Request for Proposals (RFP) and select winning competitive supplier
b. Implement the public information program, including notice of the 30-day opt-out period
c. Enroll customers and provide service, including required information disclosures

a. Issue a Request for Proposals and select winning competitive supplier

After the DPU approves the Aggregation Plan, the next step is to procure the electricity supply.

The Town will solicit bids from leading competitive suppliers, including those currently supplying aggregations in Massachusetts and other states. The RFP will require that the supplier satisfy key threshold criteria, including:

- Licensed by the DPU
- Strong financial background
- Experience serving the Massachusetts competitive market or municipal aggregations in other states
- Demonstrated ability, supported by references, to provide strong customer service

In addition, suppliers will be required to agree to the terms and conditions of a Competitive Electric Service Agreement (ESA), substantially in the form of the Town's model Competitive Electric Service Agreement. The agreement requires the supplier to:

- Provide all-requirements service
- Allow customers to exit the standard product at any time with no penalty or fee
- Agree to specified customer service standards
- Comply with all requirements of the DPU and the local distribution company

The Town will solicit price bids from suppliers that meet the threshold criteria and agree to the terms and conditions prescribed in the ESA. The Town will request bids for a variety of terms and may request bids

for a variety of pricing structures within each contract term. If none of the bids is satisfactory, the Town will reject all bids and repeat the solicitation as often as needed until market conditions yield a price that is acceptable to the Town.

The Town will solicit bids both for power supply that meets the Massachusetts Renewable Portfolio Standard (RPS) requirements and for a greener supply containing additional renewable energy over and above the RPS requirements. The renewable energy in the power supply will be documented using Renewable Energy Certificates (RECs). The Town will seek bids that include RECs from a variety of renewable sources, and will choose the proposal that offers the best combination of environmental benefit and price.

The Town will ask bidders to identify the technology, vintage, and location of the renewable generators that are the sources of the RECs. The Town will require that the RECs either be created and recorded in the New England Power Pool Generation Information System or be certified by a third party such as Green-e.

b. Implement public information program, including notice of the pre-launch opt-out period

Once a winning supplier is selected, the Town will implement a public education program.

The delivery of a public education plan and associated materials are pivotal to ensuring clarity, participation, and enthusiasm for the aggregation. The Town will use a variety of communication vehicles to communicate the plan's objectives, the primary terms and conditions of the contract, and the right to opt out of the program.

The public education plan will include both broad-based efforts and a 30-day opt-out notice to be mailed to every eligible customer on basic service.

i. Broad-based education efforts

The broad-based, local efforts will take advantage of traditional media, the Web, and social media to ensure as many people as possible learn about the aggregation. Planned elements include:

- An announcement introducing the program and the competitive supplier, which will be sent to media contacts at the local newspaper, homeowners associations, and other outlets and organizations identified as valuable by the Town.
- A dedicated informational website that explains the Aggregation Plan, community benefits, the opt-out process, the environmental content of the power supply, and other helpful information. This website will be available during the initial educational outreach and also on an ongoing basis so that customers can find information about the program for its duration.
- A toll-free customer information and support hotline.
- Interviews with local media outlets such as the local cable access channel and radio station.
- An informational slide broadcast on the local cable access television channel.
- Announcements on the Town's social media accounts.
- Informational documents that mirror the aggregation website content and can be used as handouts during the community presentation. These materials will also be made available through the website as downloadable files and in the Town Hall and other public buildings.
- A community-wide presentation, open to all community members.
- A presentation for seniors at the senior center.

- A detailed timeline for these efforts will be developed as the launch gets closer.

ii. Notice of the 30-day, pre-launch opt-out period

In addition to the broad-based education initiatives, a 30-day opt-out notice will be mailed to the billing address of every eligible customer on basic service. The notice will be an official Town communication that will include information for opting out both before and after program launch. The notice will be sent in an envelope clearly marked as containing time-sensitive information related to the program. The notice will: (1) introduce and describe the program; (2) inform customers of their right to opt out and that they will be automatically enrolled if they do not exercise that right within 30 days; (3) explain how to opt out; and (4) prominently state all program charges and compare the price and primary terms of the Town's competitive supply to the price and terms of utility basic service. The opt-out notice is attached to this Plan as Exhibit B. The opt-out envelope is attached as Exhibit C.

The direct mailing will include an opt-out reply card and reply envelope. Customers will have 30 days from the date of the mailing to return the reply card if they wish to opt out of the program before program launch. The notice will be designed by the Town and printed and mailed by the competitive supplier, who will process the opt-out replies. The opt-out reply card is attached to this Plan as Exhibit D.

In addition to the reply card, customers will be able to opt out using the program website or by calling the competitive supplier's toll-free number.

Customers that opt out during the 30-day, pre-launch period will not be enrolled in the program. Those customers that do not opt out during that period will be enrolled in the program, however they will be free to opt out at any time thereafter. They will be able to opt out using the program website or by calling the competitive supplier's toll-free number.

c. Enroll customers and provide service, including information disclosure

After the completion of the 30-day opt-out period, the competitive supplier will enroll into the program all basic service customers that did not opt out. All enrollments and other transactions between the competitive supplier and National Grid will be conducted in compliance with the relevant provisions of DPU regulations, National Grid's Terms and Conditions for Municipal Aggregators (as amended or superseded from time to time), and the protocols of the Massachusetts Electronic Business Transactions Working Group.

Once customers are enrolled, the electricity supplier will provide all-requirements power supply service. The supplier will also provide ongoing customer service, maintain a program website, and process new customer enrollments, ongoing opt-outs, opt-back-ins, and customer selections of optional products. Prior to the expiration of the initial power supply agreement, the Town intends to enter a new supply agreement.

As part of its ongoing service, the Town will provide the quarterly disclosure information required by G.L. c. 164, § 1(F)(6) and 220 C.M.R. § 11.06. Like the other Massachusetts aggregations, the Town requests a waiver from the requirement that the disclosure label be mailed to every customer and seeks permission instead to provide the information through alternative means, including press releases, announcements on cable television, postings at Town Hall, and postings on the program website. As the DPU has found with other aggregations, this alternate information disclosure strategy will allow the Town to provide the required information to its customers as effectively as through mailings.

d. Annual report to DOER

On an annual basis, the Town will report to DOER on the status of the program, including number of customers enrolled and opting-out, kilowatt-hour sales, customer savings, and participation in green products (all as provided to the Town by the supplier), as well as such other information as DOER may request.

3. Funding

All of the costs of the program will be funded through the supply contract.

The primary cost will be the competitive supplier's charges for the power supply. These charges will include the costs of RECs and will be established through the competitive solicitation for a supplier.

The administrative costs of the program will be funded through a per kilowatt-hour adder that will be included in the supply price and paid by the competitive supplier to the Consultant, as specified in the Competitive Electric Service Agreement. This fee will cover the services of the Consultant, including developing the Aggregation Plan, managing the DPU approval process, managing the supply procurement, developing and implementing the public education plan, providing customer support, interacting with the local distribution company, monitoring the supply contract, and providing ongoing reports. This charge has been set initially at $0.001 per kilowatt-hour.

In addition, the Town may direct the competitive supplier to include in the supply price an Operational Adder of up to $0.001 per kilowatt-hour to be payable by the competitive supplier to the Town. Funds collected through the Operational Adder shall be used to support the operational costs of the program, including, for example, 1) personnel costs associated with an Energy Manager position one of the responsibilities of which is to assist with the aggregation program; 2) REC purchases and related obligations such as escrow accounts and other sureties; and 3) other forms of support for local energy projects that create benefits for program participants. If the Town chooses to implement the Operational Adder, the program website and opt-out letter will note that the supply price includes that Adder.

4. Rate Setting and Other Costs to Participants

As described above, the program's electricity supply charges will be set through a competitive bidding process and will include the administrative adder and may include an Operational Adder. Prices, terms, and conditions will vary by product and may differ among customer classes. For each customer class, prices will be fixed for periods at least as long as the basic service price period for the class.[1] When prices change, the Town will notify consumers by issuing a media release and posting a notice on the Town website.

The program affects only customers' electricity supply charges. Delivery charges will be unchanged and will continue to be charged by National Grid in accordance with tariffs approved by the DPU.

Participants will receive one bill from National Grid that includes both the electricity supply charge and National Grid's delivery charges.

[1] Basic service pricing periods vary by customer class. For residential and small business customers, the prices change every six months. For medium and large business customers, prices change monthly.

5. Method of Entering and Terminating Agreements with Other Entities

The Town's process for entering, modifying, enforcing, and terminating all agreements associated with the Aggregation Plan will comply with the Town's charter, federal and state law and regulations, and the provisions of the relevant agreement.

When the Town has decided that it is timely to solicit bids for a new electric service agreement, the procurement steps will be as follows:

1. The Town's consultants will prepare and issue an RFQ on behalf of the Town
2. The Town will receive and evaluate qualifications
3. The Town's consultants will issue an RFP for prices
4. The Town will receive and evaluate bids and, if acceptable, execute a contract with the winning bidder. The Board of Selectmen will be responsible for executing the supply contract.

If the prices bid on any given bid date are not satisfactory, the Town will wait to see if market conditions improve and then repeat the process.

6. Rights and Responsibilities of Program Participants

All participants will have the right to opt out of the standard product at any time without charge. They may exercise that right by any of the following: 1) calling the Competitive Supplier's toll-free number; 2) contacting National Grid and asking to be returned to basic service; or 3) enrolling with another competitive supplier.

All participants will have the consumer protection provisions of Massachusetts law and regulations, including the right to question billing and service quality practices. Customers will be able to ask questions of and register complaints with the Town, Consultant, the competitive supplier, National Grid, and the DPU. As appropriate, the Town and Consultant will direct customer complaints to the competitive supplier, National Grid, or the DPU.

Participants will be responsible for paying their bills and for providing access to metering and other equipment necessary to carry out utility operations.

7. Extension or Termination of Program

Prior to the end of the term of the initial Competitive Electric Service Agreement, the Town will solicit bids for a new supply agreement and plans to continue the program with the same or a new competitive supplier.

Although the Town is not contemplating a termination date, the program could be terminated in the following two ways:

1. upon the termination or expiration of the Competitive Electric Service Agreement without any extension, renewal, or negotiation of a subsequent supply contract; or
2. upon the decision of the Board of Selectmen to dissolve the program effective on the end date of any outstanding supply agreement.

In the event of termination, customers would be returned to National Grid's basic service via Electronic Data Interchange (EDI) by the competitive supplier in accordance with the rules set forth in the Electronic

Business Transactions (EBT) Working Group Report unless the customers choose an alternative competitive supplier.

The Town will notify National Grid of the planned termination or extension of the program. In particular, the Town will provide National Grid notice: (1) 90 days prior to a planned termination of the program; (2) 90 days prior to the end of the anticipated term of the program's ESA; and (3) four business-days after the successful negotiation of a new electricity service agreement.

The Town will notify consumers of program termination by issuing a media release and posting a notice on the Town website. In addition, consumers will receive notice of a supplier change on their bill from the local distribution company.

IV. Substantive Requirements

The Municipal Aggregation Statute also requires that the aggregation plan satisfy three substantive requirements:

- Universal access
- Reliability
- Equitable treatment of all customer classes

The Town's program will satisfy all three requirements, as discussed below.

1. Universal Access

The Aggregation Plan provides for universal access by guaranteeing that all customer classes will be included in the program under equitable terms.

Most importantly, all customers will have access to the program. All eligible basic service customers will be automatically enrolled in the program unless they choose to opt out.

As new customers move into the Town, they will have an opportunity to join the program. New customers will initially be placed on basic service. They will then receive an opt-out notice and will be enrolled in the aggregation unless they choose to opt out within the 30-day opt-out period. New customers will be enrolled at the same price as the existing customers, with the exception of new Very Large Commercial and Industrial Customers ("VLC&I Customers"). New VLC&I Customers are defined as any customer that is on the utility's largest rate class and has historical or projected consumption in excess of 1,000,000 kWh per year. These customers, if any, will be enrolled at a price that reflects market prices at the time of enrollment.

All customers will have the right to opt out of the program at any time. Customers that opt out will have the right to return to the program at a price that reflects market prices at the time of their return.

2. Reliability

Reliability has both physical and financial components. The program will address both through the ESA with the competitive supplier. From a physical perspective, the ESA commits the competitive supplier to provide all-requirements power supply and to use proper standards of management and operations (ESA, Article 2.) The local distribution company, National Grid, will remain responsible for delivery service, including the physical delivery of power to the consumer, maintenance of the delivery system, and restoration of power in the event of an outage. From a financial perspective, the ESA requires the supplier

to pay actual damages for any failure to provide supply at the contracted rate (i.e., to pay the difference between the contract rate and the utility supply rate). The ESA also requires the competitive supplier to maintain insurance (ESA, Article 16). Accordingly, the program satisfies the reliability requirement of the statute.

3. Equitable Treatment of all Customer Classes

The Aggregation Statute requires "equitable" treatment of all customer classes. The DPU has determined that this does not mean that all customers must be treated "equally," but rather that similarly-situated classes be treated "equitably." In particular, the DPU has allowed variations in pricing and terms and conditions between customer classes to account for the disparate characteristics of those classes.

The program makes four distinctions between groupings of customers. First, the program will distinguish among customer classes (residential, commercial, industrial) by soliciting separate pricing for each of those classes. The program will use the same customer classes that National Grid uses for its basic service pricing.

Second, the program will distinguish between customers receiving the standard product and customers that affirmatively choose an optional product, such as a green product. Customers selecting the optional product will be charged the price and terms of service associated with that product.

Third, as described above under "Universal Access," among New Customers, the program may distinguish between a) New VLC&I Customers, and b) all other New Customers. The program will offer New Customers other than New VLC&I Customers the standard contract pricing. However, the program will offer new VLC&I Customers pricing based on market prices at the time the customer seeks to join the aggregation.

Finally, consistent with DPU rulings, among customers that are served by a competitive supplier at the time of program launch and later seek to join the aggregation, the program will distinguish between a) residential and small C&I customers, and b) medium, large, and very large C&I customers. Residential and small C&I customers will be offered standard contract pricing. Medium, large, and very large C&I customers will be offered market based rates which will reflect market conditions at the time the customer seeks to join the aggregation.

V. PLANNED SCHEDULE

Milestone	Day Estimate
RFQ for competitive supplier issued	Day 1
RFP for final supply prices issued	Day 35
Electricity Supply Agreement executed	Day 49
Broad-based educational campaign begins, including the announcement of supply contract and pricing and the launch of program web site.	Day 50
Opt-out notice mailed to customers	Day 56
Opt-out deadline	Day 86
Service begins as of each customer's next meter read date	Day 90

The planned schedule is presented for illustrative purposes. The final schedule will be established when the Town receives regulatory approval. [2]

VI. CONCLUSION

The *Nantucket Power Choice* Program meets all of the requirements of the municipal aggregation statute, including providing universal access and a reliable power supply and treating all customer classes equitably. The Town of Nantucket looks forward to the approval of this plan by the DPU so that the Town can launch the program and offer the benefits of rate stability, renewable energy, and increased electricity choice to its residents and businesses.

[2] The planned schedule is designed to give the competitive supplier sufficient time to satisfy EDI testing requirements. However, the schedule will be adjusted if additional time is needed to meet those requirements.

EXHIBIT A

Town Meeting Resolution Authorizing Aggregation

Town of Nantucket

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OFFICE OF THE
TOWN & COUNTY CLERK
16 Broad Street
NANTUCKET, MASSACHUSETTS 02554-3590

Catherine Flanagan Stover, MMC, CMMC
Town & County Clerk

(508) 228-7216
FAX (508) 325-5313
Home: (508) 228-7841
Email: cstover@nantucket-ma.gov
flanaganstover@yahoo.com
townclerk@nantucket-ma.gov

WEBSITE: http://www.nantucket-ma.gov

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April 4, 2016

TO WHOM IT MAY CONCERN:

I, Catherine Flanagan Stover, duly elected Clerk of the Town and County of Nantucket, hereby certify that the April 2, 2016 ANNUAL TOWN MEETING adopted **Article 104: "Municipal Aggregation"** at the April 2, 2016 adjourned session when "...the adoption of all articles not heretofore acted upon as recommended by the Finance Committee, or as recommended by the Planning Board, was duly motioned, seconded, and voted in accordance with the motions recommended by the Finance Committee or, in the absence of a Finance Committee motion, then in accordance with the motions as recommended by the Planning Board, as printed in the Finance Committee Report, with technical amendments brought forward during the course of the meeting…"

VOTE: The vote on the motion pursuant to Article 104 as moved by the Finance Committee, was by Unanimous Voice Vote. The motion was adopted.

Catherine Flanagan Stover, MMC, CMMC
Town and County Clerk

ARTICLE 104
(Municipal Aggregation)

To see if the Town will vote to:

1. Authorize the initiation of a municipal aggregation program to aggregate the electrical load of interested consumers in Nantucket pursuant to M.G.L. c. 164, § 134, or any other enabling authority; and

2. Authorize the Board of Selectmen to (i) enter into an agreement with a municipal aggregation consultant to assist, at no cost to the Town, with the development, implementation and administration of such aggregation program for a term of more than three years, and (ii) take any actions and execute any other documents necessary, convenient, or appropriate to accomplish the foregoing and to implement and administer the aggregation program and agreement, which agreement and documents shall be on such terms and conditions as the Board of Selectmen deems in the best interests of the Town.

Or to take any other action related thereto.

(Board of Selectmen)

FINANCE COMMITTEE MOTION: Moved that the Board of Selectmen is hereby authorized to:

1. Initiate a municipal aggregation program to aggregate the electrical load of interested consumers in Nantucket pursuant to M.G.L. c. 164, § 134, or any other enabling authority; and

2. To (i) enter into an agreement with a municipal aggregation consultant to assist, at no cost to the Town, with the development, implementation and administration of such aggregation program for a term of more than three years, and (ii) take any actions and execute any other documents necessary, convenient, or appropriate to accomplish the foregoing and to implement and administer the aggregation program and agreement, which agreement and documents shall be on such terms and conditions as the Board of Selectmen deems in the best interests of the Town.

EXHIBIT B

Opt-Out Notice

TOWN ELECTRICITY PROGRAM
NOTIFICATION LETTER

TOWN OF NANTUCKET ENERGY OFFICE

<MONTH> <DAY>, 2017

Dear Town of Nantucket Electricity Service Customer,

This letter contains important information about your electricity bill.

Nantucket Power Choice is a new Town program designed to help you save money and protect you from seasonal utility price swings. Nantucket Power Choice is a municipal electricity aggregation. By purchasing electricity for the entire community through the program, the Town of Nantucket has negotiated a lower rate for the electricity supply portion of your bill than National Grid's Basic Service rate.

If you received this letter, you will be AUTOMATICALLY enrolled in Nantucket Power Choice, unless you choose not to participate.

- **If you participate:** National Grid will deliver your electricity, fix power outages, and bill you, but the Town will choose your electricity supplier. The Town has negotiated a <XX>-month contract with <SUPPLIER NAME> to supply electricity to Town residents and businesses from <MONTH> <YEAR> meter reads through <MONTH> <YEAR> meter reads.
- **If you do not participate:** National Grid will continue to choose your electricity supplier.

Program Benefits

Cost Savings - The Town has negotiated a fixed price that is below National Grid Basic Service winter rates at program launch. However, National Grid prices change periodically. As a result, *the program price will not always be below the National Grid price*. The program goal is to deliver savings when costs are averaged across all <XX> months of the contract.

Predictability - The Town has established an <XX>-month contract with <SUPPLIER NAME>. Your electricity supply price will not change before your <MONTH> <YEAR> meter read.

More Choice - Nantucket Power Choice introduces a new electricity supplier to the island *and* gives you two new alternatives to National Grid Basic Service: 1) Power Choice Standard, which meets state renewable energy requirements, and 2) **Power Choice Plus**, which includes a higher percentage of renewable energy (details on the back).

Your Relationship with National Grid

Your primary relationship for electricity will remain with National Grid. Participating in Nantucket Power Choice impacts only your electricity supplier. Beginning with your <MONTH> <YEAR> National Grid bill, you will see <SUPPLIER NAME> printed under Supply Services. Otherwise:

- Your bill will continue to come from National Grid
- You will continue to send bill payments to National Grid
- You will continue to call National Grid if your power goes out

If you are on a budget plan or are eligible for a low-income delivery rate or fuel assistance, you will continue to receive those benefits.

Your New Price for Electricity Supply

<X.XX> ¢/kWh

For all customers: residential, small businesses, and medium and large businesses

Compare to National Grid rates on the back. ▶

Questions?

Visit **www.nantucket-ma.gov/XXXX**

Call: **1-844-483-5004** or email **nantucket@masspowerchoice.com** with questions about the program.

Don't Want to Participate?

There is no penalty or fee to opt out of the program, and you may do so at any time.

Opt out before the program begins: **Before <MONTH> <DATE>, 2017**, sign and return the enclosed postcard or opt out online at **www.nantucket-ma.gov/XXXX**.

Opt out in the future: Call <SUPPLIER NAME> at **1-800-XXX-XXXX** or opt out online at **www.nantucket-ma.gov/XXXX**

If you opt out, you will remain a National Grid Basic Service customer.

Comparative Electricity Supply Rates and Terms

As a National Grid Basic Service customer, you will be automatically enrolled in the Standard Offering.
To choose the **Power Choice Plus**, contact <SUPPLIER NAME> at 1-800-XXX-XXXX.

	Power Choice Standard	**Optional: Power Choice Plus**	**National Grid Basic Service**
Renewable Energy Content	Meets Massachusetts renewable energy requirements.	<INSERT DETAILS>	Meets Massachusetts renewable energy requirements.
Rate Term	<MONTH> <YEAR> meter read – <MONTH> <YEAR> meter read	<MONTH> <YEAR> meter read – <MONTH> <YEAR> meter read	<MONTH> <DAY>, <YEAR> – <MONTH> <DAY>, <YEAR> **
Residential	X.XX ¢/kWh	XX.XX ¢/kWh	XX.XXX ¢/kWh
Small business	X.XX ¢/kWh	XX.XX ¢/kWh	XX.XXX ¢/kWh
Medium and large business	X.XX ¢/kWh	XX.XX ¢/kWh	XX.XX ¢/kWh (<MONTH> <DAY>, <YEAR> - <MONTH> <DAY>, <YEAR>) **
Exit Terms	Leave any time. No exit charge.	Leave any time. No exit charge.	Leave any time. No exit charge. (Except for some medium and large business accounts.)

* New renewable energy projects are those projects that came into commercial operation after January 1, 1998. The additional new renewable projects incorporated into Power Choice Plus are from <PROJECT TYPE>.

** National Grid's fixed Basic Service rates change every six (6) months for residential and small business accounts and every month for medium and large business accounts.

Frequently Asked Questions

What is electricity supply? National Grid separates your bill into two services: **supply** and **delivery**. Supply refers to the electricity itself. Delivery is the process of bringing electricity to you over wires and undersea cables. Within Nantucket Power Choice, the Town will procure your electricity supply. National Grid will continue to deliver your electricity, read your meter, care for poles and wires, provide customer service, and restore power when there is a service interruption.

Do I have to participate? No, you do not have to participate in the program. To opt out before the program begins, sign and return the enclosed postcard before **<MONTH> <DATE>,** or opt out online at **www.nanatucket-ma.gov/XXXX**.

I have signed my own contract with an electricity supplier. Will I be automatically enrolled? If you have already established a contract with a different electricity supplier, you should not be automatically enrolled. If you received this letter but you have an existing electricity supply contract, you should opt out of the program.

If you have any additional questions, please do not hesitate to reply to me directly or contact customer support at **nantucket@masspowerchoice.com** or 1-844-483-5004. Our Town consultants, Peregrine Energy Group, will be happy to help you.

Lauren Sinatra
Energy Coordinator
Town of Nantucket Energy Office
lsinatra@nantucket-ma.gov / (508) 325-5379

EXHIBIT C

Opt-out Envelope

TOWN OF NANTUCKET
C/O VENDOR NAME
[Street address]
[City], XX 00000-0000

PRESORTED
STANDARD
US POSTAGE PAID
CITY, XX
PERMIT, NO XXXX

Time-sensitive notice sent on behalf of the Town regarding your electricity rates.

EXHIBIT D

OPT-OUT REPLY CARD

NANTUCKET POWER CHOICE
OPT-OUT REPLY CARD

X _____

Signature Date

OPT-OUT INSTRUCTIONS

You do not need to take any action to participate in Nantucket Power Choice.

If you **do not** wish to participate:

1. Sign and date this card
2. Drop it in the mail

This card must be signed by the Customer of Record whose name appears in the address on this card. You must return the card by <MONTH> <DAY>, <YEAR>, to opt out of the program before program launch on <MONTH> <DAY>, <YEAR>.

Exhibit 2

COMPETITIVE ELECTRIC SERVICE AGREEMENT

Draft

June 2016

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Related Documents Attached to this Agreement and Incorporated by Reference

Exhibit A	Prices and Terms
Exhibit B	Monthly Report of Sales
Exhibit C	Customer Enrollment, Opt-Out and Opt-In Procedures
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Exhibit F	Aggregation Plan

Preamble

WHEREAS, the Massachusetts Legislature has adopted Chapter 164 of the Electric Utility Restructuring Act of 1997, ("Restructuring Act"), which, *inter alia*, (1) allows for competition in the generation and supply of electricity to consumers, (2) authorizes municipalities to aggregate the electrical load of electricity consumers within their boundaries, and (3) allows municipal aggregators to formulate an Aggregation Plan and conduct aggregation programs;

WHEREAS, the Town of Nantucket ("Town") has developed an electricity supply program ("Program") to aggregate the electric loads of consumers located within the Town and to negotiate competitive rates for the supply of electricity for such consumers;

WHEREAS, the Town has received approval of its Program from the Massachusetts Department of Public Utilities ("Department");

WHEREAS, _____ a _____corporation, having an address of _____, duly authorized to conduct business in the Commonwealth of Massachusetts ("Competitive Supplier"), desires to provide All-Requirements Power Supply to consumers located within the Town, pursuant to the terms and conditions of the Program and this Competitive Electric Service Agreement ("Agreement"); and

WHEREAS, the Town desires that the Competitive Supplier provide All-Requirements Power Supply as an alternative to Basic Service for consumers within the Town.

NOW THEREFORE, IT IS AGREED THAT, the Town and the Competitive Supplier hereby enter into this Agreement subject to the terms and conditions below.

ARTICLE 1 DEFINITIONS

Capitalized terms that are used but not defined in the body of this Agreement, including the Exhibits hereto, shall be defined as set forth in this Article I. The words defined in this Article I shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined in this Article I shall be given their common and ordinary meanings.

1.1 Agreement – This Competitive Electric Service Agreement.

1.2 Aggregation Plan - The Town of Nantucket's Aggregation Plan, as adopted or amended by the Town from time to time.

1.3 All-Requirements Power Supply – The service under which the Competitive Supplier provides all of the electrical energy, capacity, reserves, and ancillary services, transmission services, transmission to the Point of Delivery, distribution losses, congestion management, and all other services or products necessary to provide firm power supply to Participating Consumers at the Point of Sale in accordance with this Agreement. This supply service also includes any costs associated with meeting "Renewable Portfolio Standards" ("RPS") at the levels required by applicable law.

1.4 Bankruptcy – With respect to a Party, such Party (i) ceases doing business as a going concern, generally does not pay its debts as they become due or admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other Governmental Rule, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, or makes an assignment for the benefit of creditors, or said Party takes any corporate action to authorize or that is in contemplation of the actions set forth in this clause (i); or (ii) a proceeding is initiated against the Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other Governmental Rule, and such proceeding is not dismissed within ninety (90) days after the commencement thereof, or any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties is appointed without the consent or acquiescence of said Party, and such appointment is not vacated or stayed on appeal, or otherwise, within ninety (90) days after the appointment, or, within ninety (90) days after the expiration of any stay of such appointment, has not been vacated.

1.5 Basic Service – Electric supply service by the LDC as defined in M.G.L. c. 164, § 1 and in orders of the Department, as amended or promulgated, as the case may be, from time to time.

1.6 Business Day – Monday thru Friday except the following state holidays in MA: New Year's Day, Martin Luther King Day, Presidents Day, Patriots Day, Memorial Day,

Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

1.7 Commercially Reasonable – Any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence, should have been known, at the time the decision was made, would have been expected in the industry to accomplish the desired result consistent with diligence, reliability, safety, expedition, and applicable laws and regulations.

1.8 Competitive Supplier - The entity identified as such in the Preamble of this Agreement.

1.9 Intentionally Omitted.

1.10 Credit Rating – With respect to the Competitive Supplier, its senior unsecured, unsubordinated long-term debt rating, not supported by third party credit enhancement, and if such debt is no longer rated, then the corporate or long-term issuer rating of Competitive Supplier or Competitive Supplier's Guarantor;

1.11 Customer Service Policies and Practices – Has the meaning set forth in Exhibit D.

1.12 Delivery Term – The period for which prices for All-Requirements Power Supply have been established, as set forth in Exhibit A.

1.13 DOER – The Massachusetts Department of Energy Resources.

1.14 Department – The Massachusetts Department of Public Utilities or any successor state agency.

1.15 EDI – Electronic Data Interchange: The exchange of business data in a standardized format between business computer systems.

1.16 Effective Date – The date on which this Agreement is executed by the Parties (or, if the Parties execute on different dates, the date on which the last Party to execute the Agreement has executed such Agreement).

1.17 Eligible Consumers – (i) Residential, commercial, industrial, municipal, and/or other consumers of electricity who receive Basic Service from the LDC as of the Effective Date, at one or more locations within the geographic boundaries of the Town; or (ii) New Consumers; or (iii) consumers within the Town that are supplied by third party suppliers at the inception of the Program and are therefore ineligible, but that subsequently become eligible when those third party supply contracts lapse. For the avoidance of doubt, all Eligible Consumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Town, as such boundaries exist on the Effective Date.

1.18 FERC – The Federal Energy Regulatory Commission.

1.19 ***Force Majeure*** – Any cause not within the reasonable control of the affected Party that, through no fault of the affected Party, precludes that Party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; acts of a public enemy; acts, failures to act or orders of any kind of any governmental authorities acting in their regulatory or judicial capacity; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances or explosions. Economic hardship of either Party shall not constitute an event of *Force Majeure.*

1.20 General Communications – The type of communications described and defined in Article 7.6 herein.

1.21 Governmental Authority – Any national, state or local government or political subdivision thereof, independent system operator, regional transmission owner or operator, or any other governmental, judicial, regulatory, legislative, public or statutory instrumentality, authority, body, agency, department, bureau, board, commission, or entity.

1.22 Governmental Rule – Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision or declaration of any Governmental Authority having the effect and force of law.

1.23 ISO-NE – The New England Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New England and the bulk transmission of electricity throughout the New England power grid.

1.24 kWh, kW – Kilowatt-hour and kilowatts, respectively.

1.25 LDC – Local distribution company, or any successor company(ies) or entity(ies) providing electricity distribution services in the Town.

1.26 NEPOOL – The New England Power Pool.

1.27 New Consumers – Residential, commercial, industrial, municipal, or other consumers of electricity that become customers of the LDC after the date of the initial Opt-out Notice and are initially placed on Basic Service.

1.28 New Consumer Notice – Has the meaning set forth in Section 5.2.

1.29 New Taxes – Any taxes enacted by any Governmental Authority after the Effective Date or by any Governmental Rule effective after the Effective Date resulting in the application, for the first time, of any tax to Participating Consumers with respect to All-Requirements Power Supply.

1.30 Opt-In Procedure – The procedure for enabling Eligible Consumers to affirmatively elect to take supply pursuant to the Program, which procedure is more fully described in Exhibit C.

1.31 Opt-Out Notice – Has the meaning set forth in Article 5.1.

1.32 Opt-Out Procedure –The procedure that enables Eligible Consumers to affirmatively elect not to participate in the program and either remain on or revert to Basic Service, which procedure is more fully described in Exhibit C.

1.33 Participating Consumers – Eligible Consumers enrolled in the Program. Eligible Consumers who have opted out of the Program are not Participating Consumers.

1.34 Parties – The Town and Competitive Supplier, as the context requires. In the singular, "Party" shall refer to either one of the Parties.

1.35 Point of Delivery – The point of interconnection between NEPOOL Pool Transmission Facilities and the transmission facilities of the LDC.

1.36 Point of Sale – The electric meter for each Participating Consumer's account, as designated by the LDC.

1.37 Program – Town of Nantucket Consumer Choice Power Supply Program implemented pursuant to the Aggregation Plan.

1.38 Regulatory Event – A change in a Governmental Rule by a Governmental Authority. A "change" as used herein may include, without limitation, any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness of a Governmental Rule by a Governmental Authority, or any change in construction or interpretation of a Governmental Rule by a Governmental Authority.

1.39 Related Documents - Aggregation Plan and Exhibits, A, B, C, and D and E.

1.40 Retail Price – As set forth in Exhibit A.

1.41 Service Commencement Date – The date of the Participating Consumers' first meter read date after _____, 2016, as may be reasonably extended due to Force Majeure Events or due to act or omission of the LDC

1.42 Service Contracts – Has the meaning set forth in Section 7.3.

1.43 Small Commercial Customer – Has the meaning set forth in Section 5.3.

1.44 Term – Has the meaning set forth in Article 6.1.

1.45 Very Large New Customer – Has the meaning as set forth in Section 5.2.

ARTICLE 2 CONDITIONS PRECEDENT

2.1 The Town's obligations under this Agreement shall be conditioned upon the Competitive Supplier fulfilling the following requirements:

a) maintain its Competitive Supplier license from the Department;
b) execute a competitive electric supplier service agreement with the LDC in a form reasonably satisfactory to Competitive Supplier;
c) execute any appropriate ISO-NE applications and agreements;
d) obtain authorization from the FERC to sell power at market-based rates; and
e) complete EDI testing with the LDC.

If Competitive Supplier has not fulfilled all such requirements by the Effective Date, it shall notify the Town in writing of the same, and the Town may terminate this Agreement without any liability.

ARTICLE 3 RIGHTS GRANTED

3.1 GENERAL DESCRIPTION AND LIMITATIONS

Competitive Supplier is hereby granted the exclusive right to provide All-Requirements Power Supply to Participating Consumers pursuant to the terms of the Program and this Agreement. For the avoidance of doubt, Competitive Supplier shall be authorized to supply All-Requirements Power Supply only to Participating Consumers, and the LDC will continue to have the right and obligation to supply electricity to Eligible Consumers who opt-out of the Program and remain on, or return to, Basic Service. Competitive Supplier recognizes and agrees that this Agreement does not guarantee that any individual Eligible Consumer will be served by the Competitive Supplier.

In accordance with Article 5 below, all Eligible Consumers shall be automatically enrolled in the Program unless they choose to opt-out. In the event the geographic boundaries of the Town change during the term of this Agreement, Competitive supplier shall only be obligated to supply All-Requirements Service to those Participating Consumers located within the Town as such boundaries existed on the Effective Date. The Competitive Supplier has the sole obligation of making all necessary and appropriate arrangements, including, without limitation, with the LDC, and the ISO-NE, to ensure that Participating Consumers receive, at the Point of Sale, the electricity to be supplied by the Competitive Supplier pursuant to this Agreement.

The Town specifically authorizes the LDC to provide to Competitive Supplier all billing and energy consumption information for Participating Consumers as is reasonably available from the LDC, which Competitive Supplier may receive and use in fulfillment of its obligations under this Agreement. Competitive Supplier shall request consumption data for individual Participating Consumers from the LDC via EDI. If further action is required by the LDC to authorize Competitive Supplier to receive such consumption and billing data, upon request of Competitive Supplier, the Town agrees to use Commercially Reasonable efforts, at Competitive Supplier's cost, to assist Competitive Supplier in obtaining such information for Participating Consumers. Competitive Supplier shall not be responsible for any errors that Competitive Supplier makes in the provision of All-Requirements Power supply to the extent such errors are caused by unknown errors or omissions contained in the information provided to it by the LDC.

ARTICLE 4 ROLE OF THE TOWN

4.1 ROLE OF TOWN

Notwithstanding anything to the contrary in this Agreement, the Town shall not receive, take title to, or be liable or responsible for the supply or delivery of, or the payments for, any All-Requirements Power Supply. It is and shall remain the sole obligation of the Competitive Supplier to arrange for delivery of All-Requirements Power Supply to Participating Consumers.

The Parties specifically agree that the role of the Town is to:

i) notify Competitive Supplier, through this Agreement or amendments thereto, of any Town-imposed contractual terms and conditions under which All-Requirements Power Supply is to be provided by the Competitive Supplier under this Agreement;

ii) reasonably assist the Competitive Supplier as set forth in Section 3.1, above, and Section 7.9 below, of this Agreement ;

ii) oversee the public education program provided that such responsibility shall not relieve the Competitive Supplier of its obligations, if any, set forth in this Agreement with respect to such program;

iii) approve the opt out notice; and

iv) to the extent the Town elects, in its sole discretion and without having the obligation to do so and without creating any rights on behalf of any third party, act as consultant and advocate for Eligible Consumers with respect to the matters addressed in this Agreement.

Both Parties expressly agree that the remedies available to the Competitive Supplier in the event of Town default are limited to the specific performance remedy described in Article 6.

4.2 CLAIMS OF ELIGIBLE/PARTICIPATING CONSUMERS

The Town is authorized under G.L. c. 164, § 134, to act on behalf of the Eligible Consumers in contracting for electric supply for such Eligible Consumers under the Program, and may consult with and communicate with any or all Eligible Consumers and Participating Consumers in connection therewith. Unless prohibited by state or federal law, the Town has the right (but not the obligation) to bring claims on behalf of Eligible Consumers or Participating Consumers against the Competitive Supplier in litigation arising under this Agreement. Nothing in this section is intended to create any rights under this Agreement on behalf of any third party.

4.3 OWNERSHIP AND USE OF ELIGIBLE CONSUMER DATA

Competitive Supplier acknowledges and agrees that, as between the Town and Competitive Supplier, the Town shall have exclusive ownership of all right, title, and interest in and to all Eligible Consumer data (including addresses, telephone numbers or other identifying information) made available by any person or entity to Competitive Supplier, in connection with

or as a result of this Agreement. Competitive Supplier shall use Eligible Consumer data solely to provide All-Requirements Power Supply to Participating Consumers and to render other services expressly required or permitted under this Agreement, and for no other purpose. Any other use of Eligible Consumer data without the prior written consent of the Town is strictly prohibited. Pursuant to such authorized use, Competitive Supplier may share such Eligible Consumer data with third-party vendors as reasonably necessary to accommodate Competitive Supplier's provision of All-Requirements Power Supply or other performance pursuant to this Agreement (including, without limitation, collection of receivables), provided that Competitive Supplier will inform any such vendor of the confidential nature of such data and impose upon them the use restrictions set forth in this Article 4.3 and elsewhere in this Agreement. Except as expressly provided in this Agreement, Competitive Supplier shall not disclose any Eligible Consumer data to any third-party and Competitive Supplier shall take all Commercially Reasonable measures to protect Eligible Consumer data from access by, or beneficial use for, any third-party. To the extent that the provision of All-Requirements Power Supply or other services under this Agreement requires that Competitive Supplier have access to or make use of any Eligible Consumer data, Competitive Supplier shall treat such Eligible Consumer data as confidential information. Competitive Supplier may use Eligible Consumer data to engage in direct marketing to Eligible Consumers regarding electric supply services under the Program, but only during the term of this Agreement and subject to the terms set forth in Article 19.2. A violation of this Article 4.3 shall be grounds for termination under Article 6.2. Competitive Supplier agrees violation of this Article 4.3 shall constitute irreparable harm.

ARTICLE 5 CONSUMER CHOICE, NOTIFICATION OF RIGHTS, ENROLLMENT

5.1 CONSUMER CHOICE AND OPT OUT RIGHTS AT PROGRAM INCEPTION

The Parties acknowledge and agree that all Participating Consumers have the right, pursuant to M.G.L. c. 164, § 134 and the Program, to change their source of electricity supply, as set forth in Article 5. The Parties shall not interfere with the right of Participating Consumers to opt-out of the Program, and shall comply with any rules, regulations or policies of the Department, the LDC and/or other lawful Governmental authority regarding the procedures for opting out of the Program, or switching from one source of electric supply to another, and pursuant to procedures described in Exhibit C. Notwithstanding the foregoing, however, the Parties may take lawful, Commercially Reasonable measures to encourage Participating Consumers to affirmatively agree to remain in the Program, subject to any Governmental Rules.

All Eligible Consumers will, as of the Effective Date, be automatically enrolled in the Program under the terms of this Agreement unless they opt-out. The Town shall provide to Competitive Supplier a list of all Eligible Consumers as of the Effective Date, as well as such Eligible Consumers' service and billing addresses. Competitive Supplier shall notify each such Eligible Consumer:

(i) about the Program;

(ii) of the date on which such Eligible Consumer will be automatically enrolled in the Program; and

(iii) that the Competitive Supplier will be providing All-Requirements Power Supply to such Eligible Consumer as of the same date, subject to the opt-out provisions of the M.G.L. c. 164, § 134, and the Plan; and

(iv) of the Opt-Out Procedure described in Exhibit C.

The Town shall specify the design and content of the Opt-Out Notice. Competitive Supplier shall review the Opt-Out Notice and notify the Town of any comments or concerns regarding the form or content of the notice. Once the design and content of the notice are finalized, Competitive Supplier shall, at its cost and in accordance with the approved design and content, prepare, print, and mail, to each such Eligible Consumer, the Opt-Out Notice at least thirty (30) days prior to the date of automatic enrollment. The Opt-Out Notice shall:

(i) prominently state all charges to be assessed by the Competitive Supplier,

(ii) provide a summary of the prices and terms included in Exhibit A;

(iii) fully disclose the prices and terms then being offered for Basic Service by the LDC;

(iv) state how such Eligible Consumer may opt-out of the Program prior to enrollment and remain on Basic Service from the LDC;

(v) state how all Participating Consumers, subsequent to enrollment, will also have the right to opt-out at any time and return to Basic Service or choose a new Competitive Supplier without paying a fee or penalty to Competitive Supplier; and

(vi) include a postage-paid reply card that customers may use to exercise their opt-out rights.

Competitive Supplier shall commence All-Requirements Power Supply as of the Service Commencement Date to such Eligible Consumers that have not exercised their right to opt out. All such Consumers shall then be deemed Participating Consumers and shall be entitled to receive supply at the prices listed in Exhibit A and pursuant to the terms and conditions of this Agreement.

5.2 NOTIFICATION TO NEW CONSUMERS OF OPT-OUT RIGHTS

In accordance with the requirements of any applicable Governmental Rules, and within a reasonable time after the LDC notifies Competitive Supplier of the existence of a New Consumer (the "New Consumer Notice") and has provided to Competitive Supplier such New Consumer's account number, service and billing address, and other pertinent contact information, Competitive Supplier shall notify such New Consumer (i) of the date on which such New Consumer will be automatically enrolled in the Program, and (ii) that the Competitive Supplier will be providing All-Requirements Power Supply to such New Consumer as of the same date, subject to the opt-out provisions of the M.G.L. c. 164, § 134, the Plan, and the Program Opt-Out Notice. Competitive Supplier shall mail an Opt-Out Notice (as described in Article 5.1) to each

such New Consumer at least thirty (30) days prior to the date of automatic enrollment. If the New Consumer is in the largest industrial rate class, Competitive Supplier may contact such new consumer and reasonably determine if such New Consumer is expected to consume more than 1,000,000 kWhs per year. If Competitive Supplier reasonably determines, within 5 business days of receiving the New Consumer Notice from the LDC, that such customer is expected to consume more than 1,000,000 kWhs per year, such consumer shall be designated a "Very Large New Consumer."

Any New Consumer, other than a Very Large New Consumer, that does not elect to opt-out of the Program as provided in this section will be automatically enrolled by Competitive Supplier in the Program, will be deemed a Participating Consumer, and shall be entitled to receive supply at the prices listed in Exhibit A pursuant to the terms and conditions of this Agreement. Promptly after determining that a New Consumer is a Very Large New Consumer, Competitive supplier shall quote a price at then prevailing market rates. If the price is acceptable to such Very Large New Consumer, the Competitive Supplier will assist such consumer with the Opt In procedure described in Exhibit C. Once enrolled in the program, the Very Large New Consumer shall be deemed a Participating Consumer and be entitled to receive supply at the market price quoted by the Competitive supplier pursuant to the terms and conditions of this Agreement.

5.3 CONSUMERS SUPPLIED BY THIRD PARTIES

Consumers being served under other competitive supply programs offered by third parties are not eligible to participate in the Program and will not be automatically enrolled as Participating Consumers under this Agreement at the inception of the Program. If any such consumer terminates its third party supply agreement, they will then be eligible to participate in the Program. Any such residential customer or small commercial customer ("small commercial" is defined to mean a non-residential consumer who, at the time of Opting In, is determined to have a historical demand, for the preceding 12 months, of less than 10 kW) may affirmatively opt-in to the Program and pay the same price that is offered to New Consumers. All other consumers are entitled to participate at then prevailing market rates. The Competitive Supplier shall follow the procedure described in Section 4 of Exhibit C to enroll consumers pursuant to this section 5.3. Promptly after receiving notice of the interest of any Consumer described in this section, the Competitive Supplier shall quote a price for participation in the Program, at the price listed in Exhibit A for residential and small commercial consumers, and at then prevailing market rates for all other consumers described in this section. Once enrolled in the Program, such consumer shall be deemed a Participating Consumer and be entitled to receive supply at the price quoted by the Competitive Supplier and otherwise pursuant to the terms and conditions of this Agreement.

5.4 CONSUMERS THAT OPT OUT AND THEN OPT BACK IN

Any Consumer that elects to opt out of the Program may subsequently elect to opt back in.

Promptly after receiving notice of the interest of such consumer in the Program, the Competitive Supplier shall quote a price for participation in the Program at then prevailing market rates. If

the price is acceptable to such consumer, the Competitive Supplier will assist the consumer with the Opt In procedure described in Exhibit C. Once enrolled in the Program, such consumer shall be deemed a Participating Consumer and be entitled to receive supply at the market price quoted by the Competitive supplier pursuant to the terms and conditions of this Agreement.

5.5 ENROLLMENT

The Competitive Supplier shall be responsible for enrolling all Eligible Consumers through EDI transactions submitted to the LDC for initial enrollment in the Program and for all subsequent enrollments of Eligible Consumers during the term of this Agreement, all in accordance with the procedures outlined in Exhibit C.

5.6 ERRORS OF LDC

In providing the notifications and conducting the activities set forth in this Article 5, the Competitive Supplier may reasonably rely upon information provided to it by the LDC for the purpose of performing its obligations. Competitive Supplier will not be responsible for any errors or omissions in connection with its notification of Eligible Consumers resulting from unknown errors or omissions contained in the information provided to it by the LDC.

ARTICLE 6 TERM OF CONTRACT AND TERMINATION

6.1 TERM

This Agreement shall commence on the Effective Date, *provided, however,* that Competitive Supplier's obligation to provide All-Requirements Power supply shall commence on the Service Commencement Date, and shall terminate with the Participating Consumers' first meter read date after _____ unless terminated earlier under Article 6.2 below ("Term").

6.2 TERMINATION

This Agreement may be terminated at any time upon written notice:

a) by either Party if the other Party fails to remedy or cure its breach of any material provision or material condition of this Agreement (excluding the failure to provide or arrange for All Requirements Power Supply, which is addressed in Article 6.2(c)), within sixty (60) days following written notice to do so by the non-breaching Party; or
b) by either Party if this Agreement or any material provision or material condition of this Agreement be finally adjudged invalid by any court or tribunal of competent jurisdiction, or if the Department or Government Authority exercises any lawful jurisdiction so as to invalidate or disapprove this Agreement in whole or in significant part; or
c) by the Town in the event of the failure of the Competitive Supplier to provide or arrange for All-Requirements Power Supply to Participating Consumers unless and only to the extent that such failure is the direct result of *Force Majeure* or the Town's material default of this Agreement; *provided, however,* that the Town shall not be permitted to

terminate this Agreement if the Competitive Supplier's failure to provide or arrange All-Requirements Power Supply is entirely a direct result of actions or non-actions by any transmission service provider, the LDC, or the ISO-NE, unless such failure continues for one hundred eighty (180) days or longer. No delay by either Party in enforcing any of its rights hereunder shall be deemed a waiver of such rights; nor shall such a waiver of one default be deemed a waiver of any other subsequent default; or

d) by the Town in the event of the Bankruptcy of the Competitive Supplier or its Guarantor.

6.3 OBLIGATIONS UPON TERMINATION

Following termination of this Agreement, the Parties' obligations under this Agreement shall cease, except that each Party shall remain responsible for any liabilities that arose prior to the date of termination of this Agreement, and all rights and privileges granted to, and all other obligations imposed on, the Competitive Supplier shall be extinguished, with the exception of the right to collect all monies due from Participating Consumers for services rendered to such consumers through the date of termination, and any obligation of Competitive Supplier to indemnify the Town under this Agreement.

The Parties expressly agree that the remedies available to the Competitive Supplier in the event of Town default are limited to specific performance as described in this Article 6.

In the event of any default by the Town, therefore, the Parties expressly agree that Competitive Supplier is not eligible to seek recovery of any monetary damages or other losses from the Town.

In addition to the right to seek monetary damages and exercise all rights and remedies available to it as a result of a material default of the Competitive Supplier under this Agreement, the Town has the right, but not the obligation, to seek monetary damages from the Competitive Supplier on behalf of all or any Eligible Consumers or Participating Consumers. Accordingly, the Competitive Supplier specifically waives all rights it may have at law to claim that the Town has no standing or otherwise lacks the authority to seek such monetary damages and exercise such rights and remedies on behalf of individual Eligible Consumers or Participating Consumers. Nothing herein is intended to create any rights under this Agreement in any third party.

6.4 SPECIFIC PERFORMANCE

Notwithstanding any other provision herein, the Parties agree that if the Town, after receiving a default notice, and after the opportunity to cure that default within the cure periods described in section 6.2(a), fails to cure the default, Competitive Supplier shall be entitled to seek specific performance of this Agreement, and this shall be Competitive Supplier's sole and exclusive remedy for any default of the Town. The Parties acknowledge and agree that because monetary damages are not available to Competitive Supplier under this Agreement, there is no remedy at law adequate to compensate Competitive Supplier for a material default of the Town under section 6.2(a), and further agree that Competitive Supplier may suffer, in the event of such a default, irreparable harm.

6.5 EXTENSION

This Agreement may be extended beyond the expiration date of the Term by written, signed amendment to this Agreement. Any new pricing terms shall be included in such amendment. Upon any such extension, this Agreement shall continue to be in effect throughout the extension period set forth in the amendment, and all provisions of this Agreement, as amended by the Amendment, shall retain the same force and effect as before the extension, unless earlier terminated by either Party pursuant to the provisions of Article 6.2.

ARTICLE 7 CONTINUING COVENANTS

The Competitive Supplier agrees and covenants to perform each of the following additional obligations during the term of this Agreement.

7.1 STANDARDS OF MANAGEMENT AND OPERATIONS

In performing its obligations hereunder, during the Term, the Competitive Supplier shall prudently and efficiently carry out its obligations under this Agreement; employ an adequate number of competently trained and experienced personnel to fulfill its responsibilities; deliver or arrange to deliver a safe and reliable supply of such amounts of electricity to the Point of Delivery as are required under this Agreement; comply with all applicable Governmental Rules and industry standards and practices for the supply of electricity to Participating Consumers; and, at all times with respect to Participating Consumers, implement the good customer service policies and practices as defined in Article 7.2, and employ all Commercially Reasonable efforts, skills, practices, systems and methods in performance of its obligations.

7.2 CUSTOMER SERVICE POLICIES AND PRACTICES

The Competitive Supplier agrees to provide, or cause to be provided, Customer Service Policies and Practices to Participating Consumers as described more fully in Exhibit D. The Town reserves the right to post Program-related information on the Town's website which will be available to Participating Consumers for general information, product and service information, and other purposes.

7.3 RESPONDING TO REQUESTS FOR INFORMATION

The Competitive Supplier shall, during normal business hours (as set forth in Exhibit D), respond promptly and without charge to reasonable requests of the Town for information or explanation regarding the matters covered by this Agreement and the supply of electricity to Participating Consumers. If such matter pertains to a particular consumer, and consumer consent is required by law, the Town will secure such consent before requesting any information under this section. Competitive Supplier agrees to designate a service representative or representatives (the "Service Contacts") who shall be available for these purposes, and shall identify the office address and telephone number of such representative(s). Such Service Contacts shall be initially identified in Exhibit E. The Competitive Supplier shall update the names of such Service Contacts as

necessary during the Term of this Agreement. Whenever necessary to comply with this Article, the Service Contacts shall call upon other employees or consultants of the Competitive Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this Article shall be interpreted as limiting the obligation of the Competitive Supplier to respond to complaints or inquiries from Participating Consumers, or to comply with any regulation or requirement of the Department, Government Authority or Attorney General regarding customer service.

7.4 ARRANGING FOR FIRM ALL-REQUIREMENTS POWER SUPPLY

Competitive Supplier shall make all appropriate arrangements with the ISO-NE, any relevant regional transmission organization, wholesale suppliers or any other entity to ensure an uninterrupted delivery of reliable, safe, and firm All-Requirements Power Supply (free and clear of any claims, liens and encumbrances) to the Point of Delivery, and shall make all appropriate arrangements and Commercially Reasonable efforts to cause the LDC to deliver such electricity (free and clear of any claims, liens and encumbrances) to Participating Consumers at the Point of Sale. In the event the Competitive Supplier is unable to deliver sufficient electricity to the Point of Delivery to serve Participating Consumers, the Competitive Supplier shall promptly make all arrangements and Commercially Reasonable efforts for an alternative supply as may be necessary to continue to serve Participating Consumers under the terms of this Agreement without interruption, and shall bear any costs it may incur in carrying out these obligations. Competitive Supplier shall not be responsible to the Town or any Participating Consumers in the event that, through no fault of Competitive Supplier, the LDC disconnects, curtails or reduces service to Participating Consumers.

7.5 NON-DISCRIMINATORY PROVISION OF SERVICE

Competitive Supplier shall supply electric energy to all Participating Consumers on a non-discriminatory basis; provided, however, that the prices and other terms of such supply may vary in accordance with Article 5 or the rate classifications as appear in Exhibit A. Competitive Supplier's prices, terms and conditions shall be in accordance with the Massachusetts General Laws, the regulations of the Department and any other Governmental Authority having jurisdiction, and other applicable Governmental Rules. The Competitive Supplier may not deny service to a Participating Consumer for failure to pay the bills of a third party, including the LDC, any electric company (whether engaged in the distribution, transmission, supply, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may to the extent allowed by law and regulation, reasonably deny or reasonably condition new service, or terminate existing service, based upon any Participating Consumer's failure to pay bills from the Competitive Supplier. Provision of electric energy supply to Participating Suppliers shall be subject to Competitive Supplier's reasonable credit policies described in Exhibit A, to the extent permitted by law and regulation.

7.6 APPROVAL OF GENERAL COMMUNICATIONS

Competitive Supplier shall cooperate with and assist the Town in the drafting and sending of messages and information to Eligible Consumers concerning the Program or any matter arising under or related to this Agreement or the Program. Competitive Supplier shall, prior to sending any direct mail, advertising, solicitation**,** bill insert, electronic mail, or other similar written or electronic communication (collectively, "General Communications") to Participating Consumers (but excluding individually drafted or tailored communications responding to a specific complaint or communication of an individual consumer), provide a copy of such General Communication to the Town for its review (for consistency with the Town's purposes and goals) and approval. The Town shall have the right to disapprove such General Communications and suggest revisions if it finds the communication inconsistent with the purposes and goals of the Town, factually inaccurate, or likely to mislead provided, however, that: (i) the communication shall be deemed approved if the Town fails to respond within seven (7) Business Days, and (ii) no approval shall be necessary for any communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; (b) that has been approved by the Department, the DOER, or any other Governmental Authority; or (c) in the nature of routine monthly or periodic bills, or collection notices, except that any bill insert or message included at the bottom of such bill not within the scope of (a) or (b) above shall require advanced review and approval by the Town; and (iii) no approval or lack of approval shall relieve the Competitive Supplier of its obligations and responsibility for its actions and omissions under this Agreement, or other than as set forth in sub-clause 'i' of this Section 7.6, result in a waiver of any rights, remedies or defenses of the Town. The Town may reject or exclude any proposed General Communication that, in its reasonable judgment, is contrary to the interests and objectives of the Program or the Town.

7.7 PARTICIPATING CONSUMER LIST

To the extent not prohibited by any Governmental Rule, Competitive Supplier shall, upon request of the Town, provide a list of the Participating Consumers being served by the Competitive Supplier, including such reasonable identifying and consumption information as the Town may also request, to the extent such information is available to Competitive Supplier. Competitive Supplier shall provide such Participating Consumer lists in an electronic format reasonably acceptable to both Parties and with no more frequency than once a month.

7.8 COMPLIANCE WITH LAWS

The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities covered by this Agreement.

7.9 CONSENT

Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make all Commercially Reasonable efforts to obtain such consent or approval. In the event the Competitive Supplier reasonably requests the

Town's assistance in obtaining such consent or approval and the Town anticipates that it will incur costs in fulfilling the Competitive Supplier's request, it shall give the Competitive Supplier an estimate of such costs. Upon receiving the estimate, Competitive Supplier shall determine if it will continue to request the Town's assistance, and if so, the Competitive Supplier shall reimburse the Town for all costs reasonably incurred by the Town in connection with such assistance.

ARTICLE 8 PRICES AND SERVICES; BILLING

8.1 SCHEDULE OF PRICES AND TERMS

Competitive Supplier agrees to provide All-Requirements Power Supply and other related services as expressly set forth herein in accordance with the prices and terms included in Exhibit A to this Agreement, which Exhibit is hereby incorporated by reference into this Agreement.

8.2 OBLIGATION TO SERVE

Competitive Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its affiliates, through bilateral transactions, or the market, as may be necessary to provide All-Requirements Power Supply for all Participating Consumers. Competitive Supplier, except as explicitly limited by the terms included in Article 5, shall be obligated to accept all Participating Consumers, regardless of their location or energy needs, subject to Competitive Supplier's credit policies described in Exhibit A and to the extent permitted by law, and subject to the terms of any approval or other order of the Department with respect to this Agreement.

8.3 METERING

The LDC will be responsible for all metering and the metered usage as reported by the LDC shall be the basis for all routine bills under this Agreement.

8.4 TERMS AND CONDITIONS PERTAINING TO INDIVIDUAL ACCOUNT SERVICE

8.4.1 Title

Title and risk of loss to All-Requirements Power Supply will transfer from Competitive Supplier to Participating Consumers at the Point of Sale. The prices quoted in Exhibit A shall be inclusive of, and the Competitive Supplier will be responsible for, any and all losses incurred on the local network transmission systems and distribution systems, as determined by the LDC.

8.4.2 Billing and Payment

Unless otherwise specified in an exhibit to this Agreement, or agreed to by the Parties in writing, all billing under this Agreement shall be based on the meter readings of each Participating Consumer's meter(s) performed by the LDC, and Competitive Supplier shall cause the LDC to

prepare and render bills to Participating Consumers on a monthly basis; and the billing and payment terms offered by the LDC to Basic Service customers shall apply to all billing under this Agreement. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

8.4.3 Regional and Local Transmission

The prices quoted in Exhibit A do not include current and future charges for distribution service costs collected by the LDC under its distribution service tariff or local transmission costs as may be imposed by the regional power pool, ISO-NE, or individual electric utilities that have FERC transmission tariffs. The parties understand that these costs will be collected by the LDC in the same manner that such local transmission and distribution costs are collected from Basic Service customers.

8.4.4 Taxes

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of All-Requirements Power Supply shall be included on the Participating Consumer's bill and shall be remitted to the appropriate taxing authority by Competitive Supplier. Participating Consumers shall be responsible for all sales taxes for sales to Participating Consumers under this Agreement. Participating Consumers shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Competitive Supplier.

ARTICLE 9 DEVELOPMENT OR OFFERING OF RENEWABLE ENERGY SOURCES

9.1 COMPLIANCE WITH RENEWABLE PORTFOLIO STANDARD

Competitive Supplier hereby agrees that it will comply with the applicable provisions of G.L. c. 25A, §11F, §11F1/2, and any regulations, orders or policies adopted pursuant thereto.

9.2 GREEN OPTION

Competitive Supplier hereby agrees that it will incorporate the Green Option program as described in Exhibit A into Supplier's provision of All Requirements Power Supply under this Agreement and offer such program following the procedures described in Exhibit C.

ARTICLE 10 CUSTOMER SERVICE PROTECTIONS

Competitive Supplier shall post a copy of this Agreement on its web site so that it is available to all Eligible Consumers and promptly provide a copy of this Agreement to any consumer that contacts the Competitive Supplier and requests a copy. Competitive Supplier agrees that it shall comply with the provisions of 220 C.M.R. 11.00, 25.00, 26.00, 27.00, 28.00 and 29.00, as applicable to Competitive Suppliers, and any amendments thereto, and any code of conduct or policies the Department may adopt in accordance with M.G.L. c. 164, § 1F(7). The Competitive

Supplier shall comply with the Customer Service Policies and Practices attached as Exhibit D and incorporated by reference into this Agreement, which Customer Service Policies and Practices shall include the Competitive Supplier's plan for maintaining "service quality standards," as that phrase is used in § 1F(7); for complying with the "affirmative choice" requirements of § 1F(8); and for handling consumer complaints, including any arbitration or dispute resolution procedures. The Competitive Supplier agrees to provide notice to the Town of any consumer complaints received from a Participating Consumer, and to grant the Town the right to participate in resolution of the dispute, to the extent that such complaints relate directly to the Program, and to the extent permitted by Department regulations and other applicable law.

In addition, and in accordance with the M.G.L. c. 164, § 1F(2) and 220 CMR 11.05(2)(b)(19) as such may be amended, restated, and replaced from time to time, in event of a dispute regarding an invoice or Competitive Supplier's service under this Agreement, a Participating Consumer may contact the Department, which may refer the dispute to the Massachusetts Office for Dispute Resolution for mediation of such dispute, if the amount in dispute is greater than one hundred dollars ($100.00) and the subject of the dispute is within the Department's statutory and regulatory authority.

ARTICLE 11 NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

Competitive Supplier agrees to conduct its operations and activities under this Agreement in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees.

ARTICLE 12 POWER SUPPLY INFORMATION AND ACCESS TO INFORMATION

12.1 POWER SUPPLY INFORMATION

12.1.1 Monthly Report of Sales

Competitive Supplier shall provide the Town or its consultant with a monthly report of sales which must contain: (i) the actual kWh sales for each meter read of the reporting periods and (ii) the number of Participating Consumer accounts active in each meter read of the reporting period. The monthly report will be due to the Town or its consultant within forty-five (45) days following the close of each month. The kWh sales and number of Participating Consumer accounts shall be listed in the report both by rate code and rate name and shall be listed separately for the "Standard Product" and any "Green Option" as shown and described on Exhibit B attached hereto. This information shall be provided in electronic format.

12.1.2 Monthly Report of Opt-Outs and Drops

Competitive Supplier shall provide the Town or its consultant with a monthly report of opt-outs and drops which must contain: (i) the number of Eligible Consumers that opt-out of the program

and (ii) the number of Participating Consumer accounts that are dropped from the program. The monthly report will be due to the Town or its consultant within forty-five (45) days following the close of each month. The information shall be listed in the report both by rate code and rate name and shall be listed separately for the Standard Product and any Green Option. This information shall be provided in electronic format.

12.1.3 Monthly Report of Consumer-Related Data

On and after the Service Commencement Date, Competitive Supplier will maintain consumer-related data in electronic form, including utility account number, billing name, billing address, service address, meter read date, usage, demand, and ICAP data. Competitive Supplier will make such data available to the Town or its consultant within forty-five (45) days following the close of each month. This information shall be provided in electronic format.

12.1.4 Standard of Care with respect to information or data submissions

Competitive Supplier shall exercise reasonable care and use all Commercially Reasonable practices in reviewing, preparing and providing any information or data required under this Agreement. To the extent that Competitive Supplier determines that any information or data provided hereunder is in error, it shall promptly provide corrected information or data to the Town or its consultant.

12.2 POWER SUPPLY REPORT

Within fifteen (15) days of the end of each quarterly reporting period, Competitive Supplier shall present a copy of the current "Disclosure Label" required by the Department, pursuant to 220 CMR § 11.06, of all Competitive Suppliers to be disclosed to their Participating Consumers which includes information pertaining to Competitive Supplier's power supply and a reasonably detailed description of the sources of Competitive Supplier's power supply used to serve Participating Consumers pursuant to this Agreement. Competitive Supplier shall post the "Disclosure Label" on its web site under Town of Nantucket power supply program.

12.3 BOOKS AND RECORDS

Competitive Supplier shall keep its books and records in accordance with any applicable regulations or guidelines of the Department, FERC, and any other Governmental Authority.

12.4 COPIES OF REGULATORY REPORTS AND FILINGS

Upon reasonable request, Competitive Supplier shall provide to the Town a copy of each public periodic or incident-related report or record relating to this Agreement that it files with any Massachusetts or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements, unless the Competitive Supplier is required by law or regulations to keep such reports or records confidential.

ARTICLE 13 RESOLUTION OF DISPUTES; CHOICE OF LAW

13.1 CHOICE OF LAW

This Agreement and the rights of the Parties shall be interpreted and determined in accordance with the laws of the Commonwealth of Massachusetts. Sole venue for any judicial proceeding involving a dispute arising from this Agreement shall be, as appropriate, the United States District Court for Massachusetts, if jurisdiction exists, or Nantucket County Superior Court.

13.2 DISPUTE RESOLUTION

Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Article 13.2 shall be the exclusive mechanism to resolve disputes arising under this Agreement. The Parties agree to use reasonable efforts to resolve any dispute(s) that may arise regarding this Agreement. Any dispute that arises under or with respect to this Agreement shall in the first instance be the subject of informal negotiations between the Parties involved in the dispute. The dispute shall be considered to have arisen when one Party sends the other Party a written notice of the 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. In the event that the Parties cannot resolve a dispute by informal negotiations, the Parties shall submit the dispute to non-binding mediation. Within fourteen (14) days following the expiration of the time period for informal negotiations, the Parties shall propose and agree upon a neutral and otherwise qualified mediator. In the event that the Parties fail to agree upon a mediator, the Parties shall request that the American Arbitration Association, Boston, Massachusetts, appoint a mediator. The mediation shall occur within fifteen (15) business days from the appointment of the mediator, unless such time period is extended by written agreement of the Parties. The Parties shall not be required to mediate their dispute for longer than a single, 6-hour day. The decision to continue mediation shall be in the sole discretion of each Party. The Parties will bear their own costs of the mediation. The mediator's fees shall be shared equally by the Parties. In the event that the Parties cannot resolve a dispute by such mediation, either Party may seek judicial enforcement subject to the provisions of this Agreement. Notwithstanding the foregoing, injunctive relief may be immediately sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this Agreement. Furthermore, nothing in this Article shall prevent a Party from terminating this Agreement in accordance with the terms thereof notwithstanding this Article or any then-pending dispute resolution process.

ARTICLE 14 INDEMNIFICATION

14.1 INDEMNIFICATION BY THE COMPETITIVE SUPPLIER

Competitive Supplier shall indemnify, defend and hold harmless the Town and its officers, employees, officials, consultants, representatives and independent contractors (the "Indemnified Parties"), from and against any and all costs, liabilities, losses, judgments, damages, and expenses (including reasonable attorney's fees), arising out of third-party claims, demands,

causes of action, suits or other proceedings and incurred by, on behalf of or involving the Indemnified Parties to the extent such claims, demands, causes of action, suits or other proceedings arise from or in connection with (i) any material breach by Competitive Supplier of its obligations, covenants, representations or warranties contained in this Agreement, or (ii) Competitive Supplier's actions or omissions in connection with its performance of this Agreement to the extent that such actions or omissions were negligent or not Commercially Reasonable. Competitive Supplier further agrees, if requested by the Town in writing to do so, to investigate, handle, respond to, and defend any such claim, demand, cause of action, suit or other proceeding at Competitive Supplier's expense. The indemnification obligation of Competitive Supplier set forth above is in addition to and not in limitation or in lieu of any other rights and remedies available to the Town. This provision shall survive the expiration or earlier termination of this Agreement.

14.2 NOTICE OF INDEMNIFICATION CLAIMS

If the Town seeks indemnification pursuant to this Article, it shall notify Competitive Supplier of the existence of a claim as soon as practicable after learning of such claim, describing with reasonable particularity the circumstances, if known, giving rise to such claim. In that notice, the Town may also request Competitive Supplier to investigate, handle, respond to and defend the Town against any such claim. The Competitive Supplier shall respond to the Town's notice within ten (10) business days of receipt of such notice with a written communication as to whether it agrees to indemnify (and, if requested by the Town in its notice, to provide a defense to) the Town for such claim. Upon written acknowledgment by the Competitive Supplier that it will assume the defense and indemnification of such claim, the Competitive Supplier may assert any defenses which are or would otherwise be available to the Town.

14.3 DUTY TO MITIGATE

Each Party agrees that it has a duty to mitigate damages and covenants that it will use Commercially Reasonable efforts to minimize any damages that may be incurred as a result of the other Party's performance or non-performance of this Agreement.

14.4 NO CLAIMS AGAINST THE TOWN

The Competitive Supplier shall make no claims against the Town or its officers for any injury to any of its officers or employees or for damage to its equipment arising out of work contemplated by this Agreement.

ARTICLE 15 REPRESENTATIONS AND WARRANTIES

15.1 BY THE COMPETITIVE SUPPLIER

As a material inducement to entering into this Agreement, the Competitive Supplier hereby represents and warrants to the Town as of the Effective Date as follows:

a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this Agreement;
b) it has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or, if such authorizations are not required by law on the Effective Date, it will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;
c) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any applicable Governmental Rule;
d) subject to the conditions precedent set forth in Article 2, this Agreement constitutes a legal, valid and binding obligation of the Competitive Supplier enforceable against it in accordance with its terms, and the Competitive Supplier has all rights such that it can and will perform its obligations in conformance with the terms and conditions of this Agreement, subject to bankruptcy, insolvency, reorganizations and other laws affecting creditor's rights generally and general principles of equity;
e) no Bankruptcy is pending against it or to its knowledge threatened against it;
f) none of the documents or other written information furnished by or on behalf of Competitive Supplier to the Town pursuant to this Agreement contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and
g) all information furnished by Competitive Supplier in response to the Town's Request for Proposals for competitive electric supply services is true and accurate.

15.2 BY THE TOWN

As a material inducement to entering into this Agreement, the Town hereby represents and warrants to Competitive Supplier as of the Effective Date of this Agreement as follows:

a) this Agreement constitutes the legal, valid and binding obligation of the Town enforceable in accordance with its terms, subject to applicable laws;
b) the execution, delivery and performance of this Agreement are within the Town's powers, have been, or will be duly authorized by all necessary action;
c) the Town has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and
d) no Bankruptcy is pending or threatened against the Town.

ARTICLE 16 INSURANCE

In order to help support the indemnifications provided in Article 14, and its other promises and covenants stated herein, Competitive Supplier shall provide and maintain throughout the term of this Agreement and any extension or renewal thereof the following insurance with companies

that are authorized and licensed in the Commonwealth of Massachusetts to issue policies for the coverages and limits so required.

a. Workers' Compensation Insurance as required by the laws of the Commonwealth of Massachusetts and employer's liability insurance in the amount of $500,000.

b. Commercial General Liability Insurance, $5,000,000 combined single limit. Commercial General Liability insurance shall include coverage for bodily injury liability, advertising injury liability, personal injury liability, broad form property damage liability, products/completed operations liability, broad form contractual liability and failure to supply coverage (if commercially and reasonably avaible). The insurance shall include a separation of interests clause, whereby the actions of one insured will not negate coverage for another insured. Also, Failure to Supply coverage is to be included. If the Commercial General Liability Insurance limit is less than the amount required above, the difference must be made up by maintaining and evidencing an incrementally increased limit of Excess Liability Insurance above that amount required in d. below.

c. Automobile Liability Insurance, covering all leased, owned, non-owned, and hired vehicles - Combined single limit of $1,000,000.

d. Excess Liability Insurance, Umbrella Form - $5,000,000 combined single limit, which shall be following form, providing coverage over commercial general liability insurance, automobile liability insurance, and employer's liability under workers' compensation insurance.

e. If any of the above insurance is written on a claims made basis, the policy retroactive date must always predate the effective date of this initial contract. Further it must provide for an extended period of indemnity of at least 36 months.

f. The Town and its public officials and employees shall be named as additional insureds on each such policy of Commercial General Liability Insurance, Excess Liability Insurance, Umbrella Form, and Automobile Liability Insurance.

g. All certificates and policies shall contain the following provision:

"Notwithstanding any other provision herein, should any of the above policies be cancelled or materially amended before the expiration date thereof, the issuing company will mail thirty (30) days prior written notice thereof to the named certificate holder and to the Town Manager, Town of Nantucket, 16 Broad St., Nantucket, MA 02554, before such cancellation or amendment shall take place."

h. Certificates evidencing such insurance in five (5) copies shall be furnished to the Town at the execution of this Agreement. Such certificates shall not merely name the types of policy provided, but shall specifically refer to this Agreement and shall state that such insurance is as required by this Agreement.

i. The Competitive Supplier shall also be required to provide to the Town with its proof of insurance coverage endorsements or riders to the policies of commercial general liability

insurance, automobile liability insurance, and excess liability insurance, umbrella form, which indicate that the Town and its public officials and employees are included additional insureds on each such policy. Upon request, the Competitive Supplier will provide the Town a copy of insurance policies maintained to satisfy the requirements herein.

j. No insurance shall be obtained from an insurer which:

(1) is not licensed to sell insurance in the Commonwealth of Massachusetts or is not authorized to provide insurance as an excess or surplus lines insurer, and
(2) does not have a current A.M. Best's rating/financial size category of A minus/VIII or better.s.

k. Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of this Agreement and shall operate as an immediate termination thereof.

l. The Competitive Supplier shall provide to the Town a copy of a certificate of insurance that provides evidence of all environmental liability insurance maintained by the Competitive Supplier.

ARTICLE 17 CONFIDENTIALITY

Competitive Supplier acknowledges that the Town is subject to certain laws pertaining to the use and release of documents and records prepared or received by a public body, including without limitation, MG.L. c. 4, § 7, cl. 26; M.G.L. c. 66, § 10; and M.G.L. c. 30A, §§ 18-25, and that any document that is deemed a "public record" under such laws (hereinafter a "Public Record") will be released to any requesting person without notice to any Party notwithstanding anything to the contrary in this Agreement, including this Article 17.

Subject to the foregoing:

To the extent information shared between the Parties is not a Public Record and is not otherwise in the public domain as set forth below, including any consumer data that is covered by confidentiality rules and regulations of the Department, or information relating to proprietary information of the Competitive Supplier that fits within a statutory exemption under said laws with respect to such information (hereinafter, "Confidential Information") each Party shall comply with such laws and any other Governmental Rules addressing the confidentiality of such information. Except as otherwise provided by law, information shall not be treated as Confidential Information hereunder if such information: (i) is or becomes generally available to the public other than as a result of disclosure by the receiving Party; (ii) was in its possession prior to disclosure hereunder and which was not acquired directly or, to the Party's knowledge, indirectly from the disclosing Party, (iii) was received from a non-party to this Agreement who to the receiving Party's knowledge, was not subject to a confidentiality agreement or fiduciary obligation regarding information; or (iv) was independently developed by the receiving Party without reference to the information.

This Agreement once executed will be deemed a Public Record and treated as such.

Subject to the foregoing, the information related to this Agreement that is considered Confidential Information shall include the following:

a) any account information related to the Participating Consumers including, without limitation, historic usage data, metering, and billing and payment information;
b) any information regarding transactions entered into by Competitive Supplier and any third parties in connections with the provision of All-Requirements Power Supply;
c) any list of Participating Consumers;
d) any information disclosed by a Party during any settlement discussions that is not reduced to an executed settlement agreement;
e) Competitive Supplier's insurance policies;
f) any financial security instruments(s) provided by Competitive Supplier;

any additional information which either Party marks as "Confidential" at the time of the release of the Information and persuasively justifies that such information fits within one of the exemptions to the Public Records Law.

ARTICLE 18 REGULATORY EVENT/NEW TAXES

18.1 REGULATORY EVENT

If, after the Effective Date, a Regulatory Event occurs or any New Taxes are imposed, and such event or taxes have a direct, material and adverse effect on the economic benefits to a Party of this Agreement, the affected Party shall send written notice to the other Party, setting forth the Regulatory Event or New Taxes and reasonably demonstrating the effect of the same on the affected Party. Upon delivery of such notice, the Parties shall use reasonable efforts to negotiate an amendment to this Agreement to mitigate such effect. Alternatively, if as a direct result of such a Regulatory Event or New Tax, Competitive Supplier incurs additional, material costs, Competitive Supplier shall provide a written notice to the Town that documents: a) the effective date of the Regulatory Event or New Tax; b) a detailed explanation and reasonable demonstration of the material cost incurred as a result of the Regulatory Event or New Tax; c) the timing of the cost impact to be incurred by the Competitive Supplier; d) the proposed price increase per kWh to be passed on to Participating Consumers; e) a proposed plan for coordinating with the LDC for an increase in the price per kWh that is billed by the LDC, designed to reimburse the Competitive Supplier for such cost impact. If the Town and the Competitive supplier cannot agree on the amendment to this Agreement or reimbursement contemplated by this section, the matter shall be subject to dispute resolution in accordance with section 13.2.

ARTICLE 19 MISCELLANEOUS

19.1 NO ASSIGNMENT WITHOUT PERMISSION

Other than in connection with a sale of all or substantially all of its competitive electric supply business, Competitive Supplier shall not assign its rights and privileges under this Agreement

without the prior written approval of the Town. Such approval may by denied at the reasonable discretion of the Town if it determines that the proposed assignee does not have at least the same financial ability, experience, and qualifications as the assigning Competitive Supplier. Notwithstanding the foregoing, the Town may not unreasonably withhold its consent to an assignment to an affiliated entity under common control or management with Competitive Supplier or Competitive Supplier's corporate parent that has the financial ability, qualifications, and experience to fulfill all obligations of Competitive Supplier under this Agreement, and which agrees, in writing to be bound by the terms and conditions of this Agreement. By making any assignment under this Article, Competitive Supplier shall be deemed to have represented and warranted to the Town that the assignee possesses such financial ability, qualifications, and experience. The Town may assign this Agreement without the prior consent of Competitive Supplier provided that the proposed assignee has at least the same creditworthiness as the Town and such assignment would not in any way impair the rights and interests of Competitive Supplier under this Agreement. The rights and obligations created by this Agreement shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

19.2 DIRECT MARKETING

Prior to the introduction of any new product or service that Competitive Supplier desires to make available to Participating Consumers or other Eligible Consumers, Competitive Supplier agrees to (i) give the Town written notice of such new product of service and (ii) discuss with the Town the possible inclusion of such new product or service in the Program or another Town aggregation program. The Parties agree to negotiate in good faith the terms, conditions, and prices for such products and services that the Parties agree to include in the Program or another Town aggregation program.

Competitive Supplier also agrees not to engage in any direct marketing to any Participating Consumers or Eligible Consumers that uses or relies upon knowledge of, or access to, such consumers that Competitive Supplier gained, in whole or in part, as a result of this Agreement. For the purposes of this provision, "direct marketing" shall include any telephone call, text messaging, social media communications, mailing, electronic mail, or other contact between the Competitive Supplier and the Consumer. Broad-Based Programs of the Competitive Supplier that do not rely on any unique knowledge or access gained through this Agreement shall not constitute such "direct marketing." Broad Based Programs shall be defined to mean generic corporate marketing programs directed at consumers in general as opposed specific marketing efforts directed at Town consumers.

19.3 NOTICES

All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and addressed to:

If to Competitive Supplier:

If to Town:

Nantucket Town Manager
Nantucket Town Offices
16 Broad St.
Nantucket, MA 02554

Notices hereunder shall be deemed properly served (i) by hand delivery on the day and at the time on which delivered to the intended recipient at the address set forth in this Agreement; (ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this Agreement; or (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this Agreement. Any Party may change its address and contact person for the purposes of this Article 19.3 by giving written notice thereof in the manner required herein.

19.4 CHANGES IN EMERGENCY AND SERVICE CONTACT PERSONS

In the event that the name or telephone number of any emergency or service contact for the Competitive Supplier changes, Competitive Supplier shall give prompt oral or written notice to the Town.

19.5 ENTIRE AGREEMENT; AMENDMENTS

This Agreement and the Related Documents constitute the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This Agreement may only be amended or modified by a written instrument signed by all Parties hereto.

19.6 FORCE MAJEURE

If by reason of *Force Majeure* either Party is unable to carry out, either in whole or in part, 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, within fourteen (14) days after the event of the *Force Majeure*, gives the other Party hereto written notice describing the particulars of the event; (ii) the suspension of the performance is of no greater scope and of no longer duration than is required by the event of *Force Majeure*; (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 event; and (iv) the non-performing Party shall use all Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations and to mitigate the effects thereof. If any event of *Force Majeure* continues for a period of one hundred eighty (180) days or longer, either Party

may terminate this Agreement by sending the other Party a written notice; *provided, however*, that neither the existence of such an event nor the termination of this Agreement on account thereof as aforesaid shall constitute a default of any Party and shall not give rise to any damages.

19.7 EXPENSES

Each Party hereto shall pay all expenses incurred by it in connection with its entering into this Agreement, including, without limitation, all of its attorneys' fees and expenses, except as otherwise expressly provided in this Agreement.

19.8 NO JOINT VENTURE

Competitive Supplier will perform all services under this Agreement as an independent contractor. Nothing herein contained shall be deemed to constitute either 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 the Town and the Competitive Supplier hereunder are individual and are neither collective nor joint in nature.

19.9 JOINT WORK PRODUCT

This Agreement shall be considered the work product of the Parties hereto, and, therefore, no rule requiring construction of the Agreement against a Party alleged to be responsible for drafting the Agreement shall be applied against either Party.

19.10 COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement. Facsimiles and or copies of signatures shall be deemed originals for purposes of the execution of this Agreement.

19.11 COST RECOVERY

The Parties acknowledge that the price for energy as described in Exhibit A includes the Consultant Commission described in Exhibit A to cover the cost of developing, implementing and operating the Aggregation. The Competitive Supplier agrees to include this cost adder in the Price for energy, and to make the monthly commission payments on behalf of Participating Consumers, in the manner described in Exhibit A, and acknowledges this obligation as a material obligation of this Agreement.

19.12 WAIVER

No waiver by either Party hereto of any one or more defaults by the other Party in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of either Party hereto to complain of any action or omission on the part of the other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party failing to

complain. A waiver of any of the provisions of this Agreement shall only be effective if unequivocal, and made in writing and signed by the Party who is making such waiver.

19.13 AGGREGATION PLAN

Competitive Supplier agrees that it has been provided with and had a reasonable opportunity to examine, and has examined, the Aggregation Plan, and has not discerned any conflicts between this Agreement and the Aggregation Plan. The Parties agree that the Aggregation Plan, in the form as it exists on the Effective Date, shall be construed harmoniously with this Agreement to the greatest practicable extent. Notwithstanding the foregoing, in the event of any conflict between this Agreement and the Aggregation Plan, the Agreement shall govern.

19.14 ADVERTISING LIMITATIONS

Competitive Supplier agrees not to use the name of the Town, or make any reference to the Town, in any advertising, publication, or other information to be distributed publicly for marketing or educational purposes, unless the Town expressly agrees to such usage. Any proposed use of the name of the Town must be submitted in writing for agreement and prior approval. The Town acknowledges that the Competitive Supplier and/or the Competitive Supplier's corporate affiliates own the exclusive rights to the trademarked logo and trade name used by Competitive Supplier. No right, license or interest in this trademark and/or trade name is granted to the Town hereunder, and the Town agrees that it shall not assert any right, license or interest with respect to such trademark and/or trade name.

19.15 PRESS RELEASES

The Town reserves the right to issue press releases with respect to this Agreement and the Program in general without the prior review, approval, or agreement of the Competitive Supplier, provided that the Town shall give three (3) business days' notice to the Competitive Supplier of any press release that mentions the Competitive Supplier by name. The purpose of this notice requirement is to provide opportunity to the Competitive Supplier to reasonably comment on the content of such press release and to give the Town the opportunity to take such comments into consideration before making the final discretionary decision regarding the content of any such press release. Whether or not a response is received by the Town within such three (3) business day period, the Town may, in its sole discretion, issue the press release.

19.16 HEADINGS AND CAPTIONS

The headings and captions appearing in this Agreement are intended for reference only, and are not to be considered in construing this Agreement.

19.17 SURVIVAL OF OBLIGATION

Termination of this Agreement for any reason shall not relieve the Town or the Competitive Supplier of any obligation accrued or accruing prior to such termination.

19.18 REMEDIES

A. General

Subject to the limitations set forth in this Article and Article 6, the Town and the Competitive Supplier reserve, and shall have, all rights and remedies available to each of them at law or in equity with respect to the performance or non-performance of the other Party under this Agreement.

B. Limitations

NEITHER PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT. THIS LIMITATION SHALL NOT APPLY TO CLAIMS OF THE TOWN AGAINST THE COMPETITIVE SUPPLIER FOR INDEMNIFICATION OF THIRD-PARTY CLAIMS UNDER ARTICLE 14 OR COMMON LAW, BUT ONLY TO THE EXTENT OF SUCH THIRD-PARTY CLAIMS.

19.19 COMPLIANCE WITH LAWS

By entering into this Agreement, the Competitive Supplier specifically represents that it has exercised due diligence to review and has fully complied with all relevant regulations and orders of the FERC, the Department, the Massachusetts Attorney General, and the DOER and any other governmental authorities having jurisdiction over any element of the transactions contemplated by this Agreement.

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

COMPETITIVE SUPPLIER

By: _____

Name:

Title:

Address:

Dated: _____

TOWN OF NANTUCKET

By: _____

Name:

Title: Town Manager

Address:

Dated: _____

EXHIBIT A

PRICES AND TERMS

Price by Rate Classification

Standard Product (all Eligible Consumers will be enrolled in the Standard Product unless they Opt Out prior to enrollment or elect the Green Option)

All prices are fixed and inclusive of all ancillary services and quoted in $ per kWh.

Rate Class*	**Price ($/kWh)**
Residential	
Small Business	
Medium and Large Business	

*Rate classes for Residential, Small Business, and Medium and Large Business as established in the Basic Service categories of the LDC.

Green Option (Eligible Consumers will be enrolled in this option which includes the purchase of renewable energy certificates as described below, only if they affirmatively elect this option)

All prices are fixed and quoted in $ per kWh as the price adder to be added to the prices in the table above for the Standard Product, for consumers that affirmatively elect the Green Option.

Rate Class	**Price ($/kWh)**
Residential	
Small Business	
Medium and Large Business	

Terms for System Supply Service

Renewable Energy in System Supply:

1. **Renewable Portfolio Standard:** The Competitive Supplier shall include Renewable Energy in the All Requirements Power Supply mix in an amount no less than that required by any Governmental Authority, including laws, regulations or policies adopted pursuant to the provisions of G.L. c. 25A, section 11F and 11F1/2, starting with the requirement on the Start-Up Service Date, or pay all penalties imposed by any Governmental Authority related to Renewable Energy requirements.

2. **Standard Product:** The standard product prices quoted above includes the cost to meet the MA RPS and APS requirements.

3. **Green Option:** The Green Option includes the purchase of RECs as specified below:

	A	B	C	D
1		Contract lapsing in 2016	Contract lapsing in 2017	Contract lapsing in 2018
2	RECS to satisfy all requirements of the MA RPS and APS	As required	As required	As required
3	Additional MA Class 1 Wind	x%	x%	x%
4	Other RECs (Please describe)	RECs required to hit 100% below	RECs required to hit 100% below	RECs required to hit 100% below
5	Total	100%	100%	100%
6	Price adder in $ per kWh to be added to Standard product price			$

Competitive Supplier shall identify the technology, vintage, and location of the renewable generators that are the sources of the RECs for the Standard and the Green Option. All such RECs shall be created and recorded in the New England Power Pool Generation Information System or be certified by a third party satisfactory to the Town such as Green-e.

Term: The period of delivery of All Requirements Power Supply shall commence with Participating Consumers' first meter read date after _____ 2016 and terminate with Participating Consumers' first meter read date after _____, unless terminated earlier under Article 6.

Eligible Consumer Opt-Out: Participating Consumers are free to opt-out of the Program using the procedures described in Exhibit C. There are no fees or charges for Participating Consumers to opt-out or terminate service at any time.

Competitive Supplier's Standard Credit Policy: The Competitive Supplier will not require a credit review for any consumer participating in the Program, nor does Competitive Supplier require any consumer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Consumer and return such consumer to a Basic Service in the event that the Participating Consumer fails to pay to Competitive Supplier amounts past-due greater than sixty (60) days.

Consultant Commission: All prices quoted above include a commission fee equal to $0.001 (1 mil) per kWh of Participating Consumers' actual usage payable to Peregrine Energy Group,

Inc., the consultant hired by the Town to develop, implement, and administer the Program. The Competitive Supplier agrees to include this commission fee in the Price for energy and to make the monthly commission payments on behalf of Participating Consumers, and acknowledges this obligation as a material obligation of this Agreement. The Competitive Supplier shall pay the commission fee in monthly installments ten (10) business days following receipt by Competitive Supplier of the meter readings of Participating Consumer's meter(s) in any given month. This provision shall be binding upon the Parties and all permitted assigns and other successors-in-interest of the Parties. Except as provided in this provision, there shall be no other third-party beneficiaries to this Agreement.

Operational Adder: In addition to the prices quoted above, Competitive Supplier shall collect an Operational Adder, if so directed by the town, in an amount up to $0.001 (1 mil) established by the town, pursuant to the 30-day notice provisions of this section. The town shall provide a minimum of 30-day notice to implement the Operational Adder, and may do so no more than two times in any 12-month period. A notice by the town to implement the collection of the Operational Adder shall be implemented by the Supplier in the bills to Participating Consumers on the first meter read for each Participating Consumer occurring a minimum of 30 days following the Town's notice, unless the Town establishes a later meter read date in such notice.. The Competitive Supplier agrees to include this Operational Adder in the Price for energy and to make the monthly payments to the Town on behalf of Participating Consumers, and acknowledges this obligation as a material obligation of this Agreement. The Competitive Supplier shall pay the operational adder to the Town in monthly installments ten (10) business days following receipt by Competitive Supplier of the meter readings of each Participating Consumer's meter(s) in any given month This provision shall be binding upon the Parties and all permitted assigns and other successors-in-interest of the Parties.

EXHIBIT B

MONTHLY REPORT OF SALES

Standard Product

Rate Code	Rate Name	Accounts	Customers	kWh
R-1	Res. Non-Heat/Annual	[x]	[x]	[x]
R-2	Res. Assist	[x]	[x]	[x]
R-3	Res. Space Heating	[x]	[x]	[x]
R-4	Res. Assist. Space Heating	[x]	[x]	[x]
G-1	General – Annual	[x]	[x]	[x]
G-2	General-Medium TOU	[x]	[x]	[x]
G-3	General-Large TOU	[x]	[x]	[x]
G-5	General-Comm. Heating	[x]	[x]	[x]
G-7	General TOU	[x]	[x]	[x]
R-5	Res. General-Water Heating	[x]	[x]	[x]
S-1	Street & Traffic Lights	[x]	[x]	[x]
S-2	Customer Owned Street Ltg.	[x]	[x]	[x]
Total:		[x]	[x]	[x]

Green Option

Rate Code	Rate Name	Accounts	Customers	kWh
R-1	Res. Non-Heat/Annual	[x]	[x]	[x]
R-2	Res. Assist	[x]	[x]	[x]
R-3	Res. Space Heating	[x]	[x]	[x]
R-4	Res. Assist. Space Heating	[x]	[x]	[x]
G-1	General – Annual	[x]	[x]	[x]
G-2	General-Medium TOU	[x]	[x]	[x]
G-3	General-Large TOU	[x]	[x]	[x]
G-5	General-Comm. Heating	[x]	[x]	[x]
G-7	General TOU	[x]	[x]	[x]
R-5	Res. General-Water Heating	[x]	[x]	[x]
S-1	Street & Traffic Lights	[x]	[x]	[x]
S-2	Customer Owned Street Ltg.	[x]	[x]	[x]
Total:		[x]	[x]	[x]

Note: Rate Codes and Rate Names are listed for illustration. Supplier shall list actual Rate Codes and Rate names served in the program.

EXHIBIT C

Supplier shall comply with Local Distribution Company (LDC) procedures for timely processing of enrollment requests, Opt Out requests, and Opt In requests as those procedures are amended from time to time. In the event of any conflict between LDC procedures and the procedures outlined in this exhibit, the LDC procedures shall apply.

Customer Enrollment, Opt-Out, and Opt-In Procedures for Municipal Aggregation

National Grid Service Territory

The following protocols describe the procedures for customer enrollment, opt out, and opt in. The protocols are designed to be consistent with the Local Distribution Company's Terms and Conditions for Municipal Aggregators, as amended or superseded from time to time. In the event of a conflict between these protocols and those Terms and Conditions, the Terms and Conditions shall govern.

1. Pre-Enrollment Opt-Out Notice, Pre-Enrollment Opt-Out Procedure, and Initial Enrollment

1.1. Opt-Out Notice and Reply Card

1.1.1. The Municipality shall design an Opt-Out Notice informing customers of the aggregation and their right to opt out and an Opt-Out Reply Card that customers may mail to exercise their opt-out right.

1.1.2. The Competitive Supplier shall print the Opt-Out Notice and Opt-Out Reply Card.

1.2. Customer List

1.2.1. After approval by the DPU and execution of the Electric Service Agreement (ESA) with a Competitive Supplier, the LDC will electronically transmit a Customer List, including the name, address, and existing power supply option (i.e., Basic Service or competitive supply) of each eligible consumer, to the Municipality's designated Competitive Supplier to facilitate the notification and opt-out requirements of the program.

1.3. Opt-Out Mailing. Within five (5) business days of receiving the Customer List, the Competitive Supplier shall mail the Opt-Out Notice and Opt-Out Reply Card to all Basic Service customers in the Municipality.

1.4. Customer Opt-Outs. During the period of thirty (30) days from the date of the postmark of the Opt-Out Notice, customers may opt-out of the aggregation by:

1.4.1. Mailing the opt-out reply card to the Competitive Supplier; or

1.4.2. Calling the Competitive Supplier's customer service number and requesting to opt out.

1.5. Customer Enrollment and Commencement of Generation Service

1.5.1. Within five (5) business days after the conclusion of the 30-day opt-out period, the Competitive Supplier shall submit an "enroll customer" transaction to the LDC for all Basic Service customers in the Municipality that did not opt out, pursuant to section 1.4.1 or 1.4.2.

1.5.2. Subject to the LDC's Terms and Conditions for Municipal Aggregators, generation service will commence as follows:

1.5.2.1. On the customer's next scheduled meter read, for customers with meter read dates at least two business days after the date of the enrollment transaction;

1.5.2.2. On the customer's subsequent scheduled meter read, for customers with meter read dates less than two business days after the date of the enrollment transaction.

1.6. Report to Municipality. Within five (5) business days after sending the "enroll customer" transactions, the Competitive Supplier shall provide the Municipality with the Customer List, with fields added for each customer indicating the date the Opt-Out Notice was mailed, whether the customer opted out, and if so the date, and whether an enrollment transaction for the customer was submitted to the LDC, and if so the date.

1.7. Undeliverable Opt-Out Notices. If any Opt-Out Notices are returned as undeliverable, the Competitive Supplier shall make Commercially Reasonable Efforts to identify a correct mailing address and re-send the notice. If the second Opt-Out Notice is not returned, and if the customer does not opt-out within thirty (30) days from the date of the postmark of the second mailing, the Competitive Supplier shall submit an enrollment transaction for the customer no less than five (5) business days after the conclusion of the 30-day opt-out period.

2. New Customers

2.1 New Customers are customers that become customers of the LDC after the date of the initial opt-out notice, for example because they moved into the Municipality.

2.2. On a monthly basis, the LDC shall provide the Competitive Supplier with a Customer List for all New Customers in the Municipality.

2.3. Within five (5) business days after receiving the Customer List, the Competitive Supplier shall mail the Opt-Out Notice and Reply Card to all New Customers.

2.4. Within five (5) business days after the conclusion of the 30-day opt-out period for the new customers, the Competitive Supplier shall submit an "enroll customer" transaction to the LDC for all New Customers that did not opt-out within the 30-day opt-out period. If any Opt-Out Notices are returned as undeliverable, Competitive Supplier shall attempt to identify a correct address and re-send the notice as described in section 1.7.

2.5. Commencement of Service. As specified in the LDC's Terms and Conditions for Municipal Aggregators, generation service will commence as follows:

2.5.1. On the customer's next scheduled meter read, for customers with meter read dates at least two business days after the date of the enrollment transaction;

2.5.2. On the customer's subsequent scheduled meter read, for customers with meter read dates less that two business days after the date of the enrollment transaction.

2.5.3. Competitive Supplier will not be responsible for delays caused by the LDC.

3. Opt-Out After Initial Enrollment

3.1. Opt-Out Procedure. Subsequent to enrollment, a customer may elect to opt out of receiving generation service through the aggregation as follows:

3.1.1. By calling the Competitive Supplier's customer service number and requesting to opt-out, in which case the Competitive Supplier shall submit a "supplier drops customer" transaction to the LDC within one (1) business day;

3.1.2. By enrolling with an unrelated competitive supplier, in which case the unrelated competitive supplier shall submit an "enroll customer" transaction to the LDC; or

3.1.3. By calling the LDC and requesting to be returned to Basic Service, in which case the LDC shall submit a "customer drops supplier" transaction.

3.2. Effective Date.

3.2.1 Where the customer opts out by contacting the Competitive Supplier or enrolling with an unrelated competitive suppler, the customer will no longer receive Generation service through the aggregation as of:

3.2.1.1 the customer's next scheduled meter read, for customers with meter read dates at least two business days after the date of the drop or enrollment transaction;

3.2.1.2 the customer's subsequent scheduled meter read, for customers with meter read dates less than two business days after the date of the drop or enrollment transaction.

3.2.2 Where the customer opts out by contacting the LDC, the customer will no longer receive Generation service through the aggregation as follows:

3.2.2.1 for residential customers, within two business days

3.2.2.2 for other customers, as of the customer's next scheduled meter read.

4. Opt-In Procedure

4.1. Applicability

4.1.1. Customers not being served by the aggregation may opt in at any time.

4.1.2. The opt in procedure applies to the following customers:

4.1.2.1. Opt-out Customers. Customers that opt-out of the aggregation, either before or after enrollment; and

4.1.2.2. Former Competitive Supply Customers. Customers that were not previously enrolled in the aggregation because they were served by a competitive supplier at the inception of the program.

4.2. Prices

4.2.1. Prices for opt-in customers shall be as follows:

4.2.1.1. All Opt-out Customers and Former Competitive Supply Customers other than residential and small business customers shall be offered a price based on prevailing market rates at the time of the opt in.

4.2.1.2. Former Competitive Supply Customers that are residential or small business customers shall be offered the standard contract price

4.2.2. The Competitive Supplier shall notify the Municipality of all prices offered to opt-in customers.

4.2.3. Unless this requirement is waived by the Municipality, the end date of any opt-in contract shall be coterminous with end date of the Standard Product.

4.3. Opt-in Process.

4.3.1. Customers may opt in to the aggregation by calling the Competitive Supplier's customer service number and requesting to opt in.

4.3.2. The Competitive Supplier shall fully disclose to the customer the price and all other terms and conditions of service. If the customer agrees to the price and terms and conditions, the Competitive Supplier shall submit an "enroll customer" transaction to the LDC within five (5) business days.

5. Optional Products

5.1. Prior to enrollment, Customers may elect an Optional Product by calling the Competitive Supplier's customer service number. The Competitive Supplier shall enroll such customers on the Optional Product.

5.2 Customers enrolled in the program may elect an Optional Product, or a return to the Basic Product, by calling the Competitive Supplier's customer service number. Within five (5) business days after a customer makes such an election, the Competitive Supplier shall submit a "change supplier data" transaction to the LDC to make the change in the customer's rate option. Once submitted to the LDC, the change shall become effective as provided in the LDC's Terms and Conditions for Municipal Aggregators.

6. Program Termination

6.1. In the event that the municipality elects at any time to terminate the program, the Competitive Supplier shall return all customers to the LDC's Basic Service via Electronic Data Interchange in accordance with the rules set forth in the Electronic Business Transactions Working Group Report.

EXHIBIT D

CUSTOMER SERVICE POLICY AND PRACTICES

The detailed terms of service are more fully described in the Agreement executed on,_____, which is posted and available on the _____ web site at the following link: _____. Competitive Supplier will provide a copy of this Agreement to any participating Consumer that requests a copy.

It is the Policy of the Competitive Supplier to:

1) Provide for Customer services that are reasonably accessible to all Participating Consumers during normal working hours and that allow Participating Consumers to transact business they may have with the Competitive Supplier; such customer service to include availability of Bilingual (Spanish) customer service representative; online customer chat line; customer emails responded to within one business day, and after-hours voice messages answered by experienced customer service representative the following business day.

2) Provide a toll-free telephone number that will be established by Competitive Supplier and be available for Participating Consumers to contact Competitive Supplier during normal business hours (9:00 A.M. – 5:00 P.M. Eastern Standard Time or Eastern Daylight Saving Time, as applicable, Monday through Friday) to resolve concerns, answer questions and transact business with respect to the service received from Competitive Supplier;

3) Include the offer to resolve any dispute with any Participating Consumer pursuant to the dispute resolution procedures described in 220 CMR 25.02 (4), or MGL c 164 (1) (F) (2).

4) All Participating Consumers will have the right to opt out of the Program at any time without penalty. Participating Consumers who opt out will have the right to return to the Program at a price that reflects market prices at the time of their return.

5) Competitive Supplier will assign a senior Customer Service Team representative, as described in Exhibit E to be primary contact for the Town of Nantucket.

EXHIBIT E

SERVICE CONTACTS

As required by Article 7.3, the Town may contact the following representatives of the Competitive Supplier with requests for information or clarification at the telephone numbers and or email addresses listed below:

Name
Title
Office Address
Telephone
Fax
Email

Name
Title
Office Address
Telephone
Fax
Email

These Service Contacts may be updated from time to time without the need for an amendment of this Agreement

EXHIBIT F

AGGREGATION PLAN

Exhibit 3

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF
ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENERGY RESOURCES
100 CAMBRIDGE STREET, SUITE 1020
BOSTON, MA 02114
Telephone: (617) 626-7300
Facsimile: (617) 727-0030

Charles D. Baker
Governor

Karyn E. Polito
Lt. Governor

Matthew A. Beaton
Secretary

Judith F. Judson
Commissioner

COPY

June 8, 2016

Elizabeth C. Gibson, Town Manager
16 Broad Street, 1st Floor
Nantucket, Massachusetts 02554

Re: Town of Nantucket Municipal Load Aggregation Plan

Dear Ms. Gibson:

I am writing to inform you that the Town of Nantucket ("Nantucket") has completed its consultation with the Department of Energy Resources ("DOER"), pursuant to G.L., c.164, § 134(a) in the development of its Municipal Load Aggregation Plan, detailing the process and consequences of aggregation.

The DOER attests to the good faith effort made by these parties in the consideration of the undertaking; the communications it has conducted with Nantucket's distribution company, National Grid; the development of a market-ready Energy Supply Agreement with licensed Competitive Suppliers; and in the communications it has conducted with us. We have engaged in helpful discussions with both the Town and its consultant, Paul Gromer, of the Peregrine Energy Group ("Peregrine") during recent weeks. It is our understanding from our review that it is the Municipality's intent to operate as a single Municipal Load Aggregation Plan and to solicit bids solely on its load and not jointly with other municipalities.

Our exchange of views has reached a satisfactory conclusion. We have now completed these discussions in response to representations and assurances made by the Town of Nantucket and Peregrine accommodating our suggestions. Following our examination of the Town's draft proposal, we made a request for some additional documentation. Upon receipt and review of all supporting documentation, the DOER, on May 18, 2016, conducted its meeting in our office with Lauren Sinatra, Nantucket's Energy Manager. Paul Gromer of Peregrine, who is coordinating Nantucket's effort, accompanied Ms. Sinatra for this meeting. During that meeting the DOER made additional observations and comments and offered suggestions regarding revisions to its Plan and supporting documentation. The Town has since made several revisions in line with our

suggestions. In performing these actions, the DOER has provided technical assistance consistent with our charge under G.L. c.25A, § 6(11).

The DOER is satisfied that the Town of Nantucket and Peregrine are undertaking this effort with realistic expectations of the municipal benefits that may accrue to future Aggregation Plan subscribers. Similarly, we recognize the commitment of Nantucket as it seeks to bring value to the community through this public aggregation.

Sincerely,

Daniel M. Knapik
Director, Green Communities

DK: siv
cc: Paul Gromer

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Town of Nantucket Municipal Aggregation Plan	)	D.P.U. 16-_____

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon all parties of record in this proceeding in accordance with the requirements of 220 C.M.R. 1.05(1) (Department's Rules of Practice and Procedure).

Dated at Boston this 21st day of June 2016.

Paul W. Gromer
2 Oliver Street, 8th Floor
Boston, MA 02109
Tel: (617) 227-7024