

NEW MILFORD BOARD OF EDUCATION
New Milford Public Schools
50 East Street
New Milford, Connecticut 06776

BOARD OF EDUCATION
MEETING NOTICE

DATE:	May 14, 2013
TIME:	7:30 P.M.
PLACE:	Sarah Noble Intermediate School – Library Media Center

AGENDA

New Milford Public Schools Mission Statement

The mission of the New Milford Public Schools, a collaborative partnership of students, educators, family, and community, is to prepare each and every student to compete and excel in an ever-changing world, embrace challenges with vigor, respect and appreciate the worth of every human being, and contribute to society by providing effective instruction and dynamic curriculum, offering a wide range of valuable experiences, and inspiring students to pursue their dreams and aspirations.

1. CALL TO ORDER

A. Pledge of Allegiance

2. RECOGNITION

- A. CMEA Northern Region Music Festival: NMHS students Serina Ahmed, Thomas Barkal, Benjamin Bayers, Ashley Billings, Kayla Blackburn, Jessica Bowe, Charles Brookshire, Kristina Chamberlin, James Curley, Anthony D'Andrea, Lawrence Davis, Nathaniel Diamond, Daniel Fay, Killian Greene, Marika Gutzman, Brandon Halberg, Abigail Heydenburg, Karl Hinger, Ryan Kauer, Alyssa Luis, Francine Luo, Howard (Bihao) Luo, Jaclyn Mercer, Timothy Mondoneto, Rebecca Myhill, Justin Nabozny, Nicholas Noga, Sylvia Onorato, Lindsey Partelow, Allegra Peery, Nicholas Pitcher, Krista Pullen, Christian Scillitoe, Emily Sterk, Tyler Swanson, Emilyn Tuomala, John Vazquez, and Brianna Walker
- B. USDA Foods School Breakfast Innovation Award Runner Up: Mrs. Sandra Sullivan for New Milford Public Schools Food and Nutrition Services

3. PUBLIC COMMENT

The Board welcomes Public Participation and asks that speakers please limit their comments to three minutes. Speakers may offer objective comments of items on this agenda. The Board will not permit any expression of personal complaints or defamatory comments about Board of Education personnel and students, nor against any person connected with the New Milford Public School System.

4. PTO REPORT

5. STUDENT REPRESENTATIVES' REPORT

6. APPROVAL OF MINUTES

- A. Approval of the following Board of Education Meeting Minutes
1. Regular Meeting Minutes April 9, 2013

7. SUPERINTENDENT'S REPORT

8. BOARD CHAIRMAN'S REPORT

9. COMMITTEE REPORTS

- A. Facilities Sub-Committee - Mr. Nichols
- B. Operations Sub-Committee - Mr. McSherry
- C. Policy Sub-Committee - Mrs. Faulenbach
- D. Committee on Learning - Mr. Lawson

- E. Education Connection - Mrs. Celli Rigdon
- F. Connecticut Boards of Education (CABE) - Mrs. Faulenbach
- G. Negotiations Committee - Mrs. Faulenbach

10. DISCUSSION AND POSSIBLE ACTION

- A. Exhibit A: Personnel – Certified, Non-Certified Appointments, Resignations and Leaves of Absence dated May 14, 2013
- B. Monthly Reports
 - 1. Purchase Resolution D-655
 - 2. Budget Position as of April 30, 2013
 - 3. Request for Budget Transfers
- C. Gifts & Donations
 - 1. PTO – Exhibit B
- D. Grant Approval
 - 1. IDEA Grant
- E. Policies for Second Review
 - 1. 5114 Removal/Suspension/Expulsion
 - 2. 5141.27 First Aid/Emergency Medical Care
 - 3. 5144 Discipline
 - 4. 5145.111 Students/Probation/Police/Courts
 - 5. 5145.12 Student Search and Seizure
 - 6. 5145.122 Use of Dogs to Search School Property
 - 7. 5145.14 Students On Campus Recruitment
 - 8. 5157 Use of Physical Force and Seclusion
- F. Policy for Approval
 - 1. 5141.231 Psychotropic Drug Use
- G. Food & Nutrition Services
 - 1. Healthy Food Certification Statement
- H. Mercury Solar Agreement
- I. Community Oriented Policing Services (COPS) Memorandum of Agreement

11. ITEMS FOR INFORMATION AND DISCUSSION

- A. Textbook Previews – Grade 9, 10, and 12
- B. Field Trip Report

12. EXECUTIVE SESSION (Anticipated)

- A. Discussion of pending CHRO claims involving claims of discrimination and/or harassment.
- B. Discussion of Superintendent's performance and performance evaluation and possible new contract of employment.

13. DISCUSSION AND POSSIBLE ACTION

- A. Discussion and possible authorization of Board Chair, Superintendent and Board Counsel to resolve pending CHRO claims.
- B. Discussion and possible authorization of Board Chair and Board Counsel to enter discussions and/or negotiations with Superintendent of Schools on new, three-year contract.

14. ADJOURN

ITEMS OF INFORMATION

Facilities Sub-Committee Minutes – May 7, 2013

Operations Sub-Committee Minutes – May 7, 2013

Policy Sub-Committee Meeting May 21, 2013 – 6:45 p.m. Lillis Administration Building, Room 2	Facilities Sub-Committee Meeting June 4, 2013 – 6:45 p.m. Lillis Administration Building, Room 2
Committee on Learning May 21, 2013 – 7:30 p.m. Lillis Administration Building, Room 2	Operations Sub-Committee Meeting June 4, 2013 – 7:30 p.m. Lillis Administration Building, Room 2

**New Milford Board of Education
Regular Meeting Minutes
April 9, 2013
Sarah Noble Intermediate School Library Media Center**

GEORGE C. JORDAN
TOWN CLERK

2013 APR 12 A 8:52

NEW MILFORD, CT

Present:	Mrs. Wendy Faulenbach, Chairperson Mr. David A. Lawson Mr. Thomas McSherry Mr. Daniel W Nichols Mrs. Lynette Celli Rigdon Mr. David R. Shaffer Mrs. Daniele Shook Mr. William Wellman
Absent:	

Also Present:	Dr. JeanAnn Paddyfote, Superintendent of Schools Mr. Joshua Smith, Assistant Superintendent of Schools Ms. Ellamae Baldelli, Director of Human Resources Mrs. Laura Olson, Director of Pupil Personnel and Special Services Mr. Gregg Miller, Director of Fiscal Services Mr. Daniel DiVito, Director of Technology Mr. John Calhoun, Facilities Manager Mr. Greg Shugrue, Principal, New Milford High School Dr. Len Tomasello, Principal, Sarah Noble Intermediate School Mrs. Suzi Greene, Assistant Principal, Schaghticoke Middle School John Vazquez, Student Representative
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1.	Call to Order A. Pledge of Allegiance The meeting of the New Milford Board of Education was called to order at 7:30 p.m. The Pledge of Allegiance immediately followed the call to order.	Call to Order Pledge of Allegiance
2.	Recognition A. State-wide Essay Contest Winner: NMHS student Kristen Hinz <ul style="list-style-type: none"> Dr. Paddyfote stated that Kristen was one of two winners in a state-wide essay contest organized by the Permanent Commission on the Status of Women and that Kristen had read her essay in honor of Women's Day at the Capitol on March 13th. B. CAEA Youth Art Celebration 2013: SMS students Eliezer Roman, Kendall Stewart and Julia Yu	Recognition A. State-wide Essay Contest Winner: NMHS student Kristen Hinz B. CAEA Youth Art Celebration 2013: SMS students Eliezer

	<ul style="list-style-type: none"> SMS Art teacher Trudy Cox spoke about the students' work in creating their self-portraits for display. <p>C. CMEA Northern Region Middle School Music Festival: SMS students Holly Barkal, Annamaria Coca, Sunita Pfitzner, Elizabeth Schlyer and Jeffrey Schlyer and SNIS students Jessica Berkun, Michael Cavuoto, Nicholas Cavuoto and Jenna Drahota</p> <ul style="list-style-type: none"> Music teacher Mike Fitzgerald and Chorus teacher Diane Taylor explained the extensive auditioning required for students to be accepted to the CMEA Northern Region Middle School Music Festival. <p>The meeting recessed at 7:43 p.m. for a brief reception and reconvened at 7:53 p.m.</p>	<p>Roman, Kendall Stewart and Julia Yu</p> <p>C. CMEA Northern Region Middle School Music Festival: SMS students Holly Barkal, Annamaria Coca, Sunita Pfitzner, Elizabeth Schlyer and Jeffrey Schlyer and SNIS students Jessica Berkun, Michael Cavuoto, Nicholas Cavuoto and Jenna Drahota</p>
3.	<p>Public Comment</p> <ul style="list-style-type: none"> Heidi Adele spoke on behalf of her son regarding the reduction in the Practical and Industrial Arts program. 	<p>Public Comment</p>
4.	<p>PTO Report</p> <ul style="list-style-type: none"> Michele Romaniello noted that the spring fundraisers are winding down as are the field trips. High school scholarship applications are now available for seniors and are due May 3rd – no extensions. 	<p>PTO Report</p>
5.	<p>Student Representatives Report</p> <ul style="list-style-type: none"> Mr. Vazquez noted that he had been involved with the All School Musical which was successful. The spring showcase was held last Friday for students which included recognition of the drum line, color guard, and spring sports representatives. A college planning session will take place tomorrow evening for juniors and their parents. 	<p>Student Representatives Report</p>

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April 9, 2013

Sarah Noble Intermediate School Library Media Center

	<ul style="list-style-type: none"> • Mr. Greenwave Talent Show will be April 26th. • The Senior prom will be May 3rd. • Poetry Slam will be May 10th. • Junior prom will be May 11th. • Spring break starts next Monday. 	
6.	<p>Approval of Minutes</p> <p>A. Approval of the following Board of Education Meeting Minutes</p> <ol style="list-style-type: none"> 1. Regular Meeting Minutes March 12, 2013 2. Special Meeting Minutes March 21, 2013 <p>Mr. Nichols moved to approve the regular meeting minutes of March 12, 2013 and special meeting minutes of March 21, 2013, seconded by Mrs. Celli-Rigdon and passed unanimously.</p>	<p>Approval of Minutes</p> <p>A. Approval of the following Board of Education Meeting Minutes</p> <ol style="list-style-type: none"> 1. Regular Meeting Minutes March 12, 2013 2. Special Meeting Minutes March 21, 2013 <p>Motion made and passed unanimously to approve the regular meeting minutes of March 12, 2013 and special meeting minutes of March 21, 2013.</p>
7.	<p>Superintendent's Report</p> <ul style="list-style-type: none"> • Dr. Paddyfote noted that she had handed out a revised Exhibit A dated April 9, 2013 as well as a draft calendar for the 2013-2014 school year. • Mr. Miller informed Dr. Paddyfote that the uniform chart of accounts legislation will come into effect July 2014 which actually works well since the New Milford Board of Education will be changing its system right around that time. • Dr. Paddyfote said that spring break will begin at close of school on Friday. 	<p>Superintendent's Report</p>
8.	<p>Board Chairman's Report</p> <ul style="list-style-type: none"> • Mrs. Faulenbach said the Board of Finance meeting will be at 7:00 p.m. on Wednesday, April 10th. • The budget referendum has been scheduled for May 14th. 	<p>Board Chairman's Report</p>
9.	<p>Committee Reports</p> <p>A. Facilities Sub-Committee</p> <ul style="list-style-type: none"> • Mr. Nichols said the Committee met April 2nd 	<p>Committee Liaison Reports</p> <p>A. Facilities Sub-Committee</p>

	<p>and discussed the Mercury Solar project and received an update from the Police department on the communications center at NMHS.</p>	
B. Operations Sub-Committee	<ul style="list-style-type: none"> Mr. McSherry said all of the items on the Operations Committee agenda were on tonight's agenda. 	B. Operations Sub-Committee
C. Policy Sub-Committee	<ul style="list-style-type: none"> Mrs. Faulenbach reported there are policies on the agenda tonight for first and second review. 	C. Policy Sub-Committee
D. Committee on Learning	<ul style="list-style-type: none"> Mr. Lawson noted that Committee on Learning has some curriculum on the agenda for approval. They also received an update on the SEED program and other mandated initiatives. There was a discussion of graduation requirements which also carried over to the Policy Committee. 	D. Committee on Learning
E. Education Connection	<ul style="list-style-type: none"> Mrs. Celli Rigdon said the Education Connection meeting was held April 4th and they discussed legislative issues including SEED. Next meeting will be May 2nd. 	E. Education Connection
F. Connecticut Boards of Education	<ul style="list-style-type: none"> Mrs. Faulenbach said CABE held a Chair roundtable where there was a lot of discussion regarding SEED. There are currently no Board seminars available on this. 	F. Connecticut Boards of Education
G. Negotiations Committee	<ul style="list-style-type: none"> Mrs. Faulenbach noted there was still one bargaining unit with on-going negotiations. There will be three this summer: Food Service, Paraeducators, and Administrators. 	G. Negotiations Committee

<p>10.</p>	<p>DISCUSSION AND POSSIBLE ACTION</p> <p>A. Exhibit A: Personnel — Certified, Non-Certified Appointments, Resignations and Leaves of Absence dated April 9, 2013</p> <p>Mr. McSherry moved to approve Exhibit A: Personnel — Certified, Non-Certified Appointments, Resignations and Leaves of Absence dated April 9, 2013 seconded by Mr. Lawson.</p> <ul style="list-style-type: none"> • Mr. Lawson asked if the Athletic Director would be a substitute until the end of the school year and Ms. Baldelli said that it would be. • Mr. Lawson asked if the intent was to hire a permanent replacement or an interim director and Dr. Paddyfote said the position would be filled permanently; the question was whether it would be administration or not. • Mr. Shaffer asked if the position currently is part of the teachers' bargaining unit or administrators' unit and Ms. Baldelli said administrators'. <p>The motion passed unanimously.</p> <p>B. Monthly Reports</p> <ol style="list-style-type: none"> 1. Purchase Resolution D-654 2. Budget Position as of March 31, 2013 3. Request for Budget Transfers <p>Mr. Nichols moved to approve monthly reports: Purchase Resolution D-654, Budget Position as of March 31, 2013, and request for budget transfers, seconded by Mrs. Shook and passed unanimously.</p> <p>C. Grant Approval</p> <ol style="list-style-type: none"> 1. Adult Education – ED 244 <p>Mrs. Celli Rigdon moved to approve the Adult Education Grant ED - 244 in the amount of \$107,903.00, seconded by Mr. Lawson.</p>	<p>A. Exhibit A: Personnel — Certified, Non-Certified Appointments, Resignations and Leaves of Absence dated April 9, 2013</p> <p>Motion made and passed unanimously to approve Exhibit A: Personnel — Certified, Non-Certified Appointments, Resignations and Leaves of Absence dated April 9, 2013.</p> <p>B. Monthly Reports</p> <ol style="list-style-type: none"> 1. Purchase Resolution D-654 2. Budget Position as of March 31, 2013 3. Request for Budget Transfers <p>Motion made and passed unanimously to approve monthly reports: Purchase Resolution D-654, Budget Position as of March 31, 2013, and request for budget transfers.</p> <p>C. Grant Approval</p> <ol style="list-style-type: none"> 1. Adult Education – ED 244 <p>Motion made and passed unanimously to approve the Adult Education Grant ED - 244 in the</p>
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	<ul style="list-style-type: none"> Mr. Lawson asked if this was a competitive grant and Mr. Smith said it was not. <p>The motion passed unanimously.</p> <p>D. Approval of the Following Curricula</p> <ol style="list-style-type: none"> Advertising Art and Design Crafts <p>Mr. Lawson moved to approve the following curricula: Advertising Art and Design and Crafts, seconded by Mr. McSherry and passed unanimously.</p> <p>E. Approval of the Following New Courses</p> <ol style="list-style-type: none"> AP Comparative Government and Politics AP Computer Science A AP World History Forensic Psychology <p>Mr. McSherry moved to approve the following new courses: AP Comparative Government and Politics, AP Computer Science A, AP World History and Forensic Psychology, seconded by Mr. Lawson.</p> <ul style="list-style-type: none"> Mr. Shaffer asked if this was a new way of approving courses because in the past the course guide would be written and then brought for approval. Mr. Smith said he was not aware of the way this Board had done this in the past. Going forward the process would be to produce a course description, and then a guide would be developed after the Board approved the description. This would still come back to the Board for approval as a guide. Also, he noted that AP courses followed a national structure. Mr. Lawson said he would refer this new approach to the Committee on Learning. <p>The motion passed unanimously.</p>	<p>amount of \$107,903.00.</p> <p>D. Approval of the Following Curricula</p> <ol style="list-style-type: none"> Advertising Art and Design Crafts <p>Motion made and passed unanimously to approve the following curricula: Advertising Art and Design and Crafts.</p> <p>E. Approval of the Following New Courses</p> <ol style="list-style-type: none"> AP Comparative Government and Politics AP Computer Science A AP World History Forensic Psychology <p>Motion made and passed unanimously to approve the following new courses: AP Comparative Government and Politics, AP Computer Science A, AP World History and Forensic Psychology</p>
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<p>F. Policies for First Review</p> <ol style="list-style-type: none"> 1. 5114 Removal/Suspension/Expulsion 2. 5141.27 First Aid/Emergency Medical Care 3. 5144 Discipline 4. 5145.111 Students/Probation/Police/Courts 5. 5145.12 Student Search and Seizure 6. 5145.122 Use of Dogs to Search School Property 7. 5145.14 Students On Campus Recruitment 8. 5157 Use of Physical Force and Seclusion 9. 6146 Graduation Requirements <ul style="list-style-type: none"> • Mr. Lawson said he was concerned that a Personal Economics class was not required as part of graduation. He said many states do require it and we do not. He noted it is our responsibility to have students college and career ready. • Mrs. Faulenbach said this could be referred back to the Policy Sub-Committee. • Mr. Shaffer said he was surprised that New Milford is looking to require 26 credits when the state only requires 25. He also expressed concern about the mandatory nature of the Capstone Project and suggested it should be optional for the first year since the state is not mandating it. • Mr. Lawson said he was unclear as to the cost of implementing the Capstone Project and Mr. Smith said the project would have a minimal cost in staffing. NEASC does look for these Capstone Projects as part of a best practice and he noted that this is not a new concept. • Mr. Lawson said there is always an issue with money in this district as the budget is cut every year so requiring 26 credits versus the state mandated 25 could be a problem. • Mr. Smith said when they looked at the structure of getting to 26 credits the increased cost versus getting to 25 was nominal. He noted 25 is the floor, not the ceiling. He said the Capstone cost is less than \$20,000 to implement. • Mrs. Faulenbach said this is just first review and the Policy Committee will look at it again for changes if necessary. • Mr. Shaffer noted that there is no Policy 	<p>F. Policies for First Review</p> <ol style="list-style-type: none"> 1. 5114 Removal /Suspension /Expulsion 2. 5141.27 First Aid/Emergency Medical Care 3. 5144 Discipline 4. 5145.111 Students /Probation /Police/Courts 5. 5145.12 Student Search and Seizure 6. 5145.122 Use of Dogs to Search School Property 7. 5145.14 Students On Campus Recruitment 8. 5157 Use of Physical Force and Seclusion 9. 6146 Graduation Requirements
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	<p>Committee until May and so he asked that this not come up for second review until after that meeting.</p> <ul style="list-style-type: none"> Mr. Shaffer asked about the CAPT testing versus the common core testing and Mr. Smith said the federal government may require an end of course exam but that is different from the replacement of the CAPT testing which will be based on the balanced assessment. <p>G. Policy for Second Review 1. 5141.231 Psychotropic Drug Use</p> <p>H. New Milford High School Graduation Date 2013</p> <p>Mr. Nichols moved to approve June 22, 2013 at 4:00 p.m. as the New Milford High School Graduation date for 2013, seconded by Mr. Lawson.</p> <ul style="list-style-type: none"> Mr. Shaffer asked if this allowed for the seniors to finish their testing and finalize the graduation list and Dr. Paddyfote said it did as the schedule actually allowed 181 days. <p>The motion passed unanimously.</p> <p>I. System for Educator Evaluation and Development (SEED)</p> <p>Mrs. Celli Rigdon moved to approve the district's participation in Connecticut's System of Educator Evaluation and Development as proposed and to authorize the Superintendent and Board Chair to sign the 2013-2014 Submission Form on the Board's behalf, seconded by Mr. Lawson.</p> <ul style="list-style-type: none"> Mr. Shaffer asked if everyone was going to be evaluated in the first year. Mr. Smith said the implementation plan calls for everyone to be evaluated at the same time versus trying to do one-third or one-half of the group. He said the district wants to make a good faith effort to move the bar and make progress on the 	<p>G. Policy for Second Review 1. 5141.231 Psychotropic Drug Use</p> <p>H. New Milford High School Graduation Date 2013</p> <p>Motion made and passed unanimously to approve June 22, 2013 at 4:00 p.m. as the Graduation date for 2013.</p> <p>I. System for Educator Evaluation and Development (SEED)</p> <p>Motion made and passed to approve the district's participation in Connecticut's System of Educator Evaluation and Development as proposed and to authorize the Superintendent and Board Chair to sign the 2013-2014 Submission Form on the Board's behalf.</p>
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**New Milford Board of Education
Regular Meeting Minutes
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Sarah Noble Intermediate School Library Media Center**

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	<p>program. He said, if necessary, adjustments can be made. He noted this is a major paradigm shift for the administration.</p> <p>The motion passed 7-1.</p> <p>Aye: Mrs. Faulenbach, Mr. Lawson, Mr. McSherry, Mr. Nichols, Mrs. Celli Rigdon, Mr. Shaffer, Mrs. Shook</p> <p>No: Mr. Wellman</p>	
11.	ITEMS FOR INFORMATION AND DISCUSSION	ITEMS FOR INFORMATION AND DISCUSSION
A.	Field Trip Report <ul style="list-style-type: none">• Mr. Wellman asked about the field trip to the Crown Plaza at a cost of \$255 per person and Mr. Smith said that was a multi-day all state music festival with some fees covered by CMEA and the rest passed on to the student.• Mr. Wellman asked if cost would be a limiting factor to students and Mr. Smith said there were funds available for students in need.	A. Field Trip Report
12.	Adjourn <p>Mr. Nichols moved to adjourn the meeting at 8:35 p.m., seconded by Mr. McSherry and passed unanimously.</p>	Adjourn <p>Motion made and passed to adjourn the meeting at 8:35 p.m.</p>

Respectfully submitted:



Wendy Faulenbach
Chairperson
New Milford Board of Education

**THE FOLLOWING ITEMS CAN BE FOUND ON THE
OPERATIONS WEB PAGE UNDER May 7, 2013**

10. DISCUSSION AND POSSIBLE ACTION

- A. Exhibit A: Personnel – Certified, Non-Certified Appointments, Resignations and Leaves of Absence dated May 14, 2013
- B. Monthly Reports
 - 1. Purchase Resolution D-655
 - 2. Budget Position as of April 30, 2013
 - 3. Request for Budget Transfers
- C. Gifts & Donations
 - 1. PTO – Exhibit B
- D. Grant Approval
 - 1. IDEA Grant
- G. Food & Nutrition Services
 - 1. Healthy Food Certification Statement

**THE FOLLOWING ITEMS CAN BE FOUND ON THE
POLICY WEB PAGE UNDER MARCH 19, 2013**

- E. Policies for Second Review:
 - 1. 5114 Removal/Suspension/Expulsion
 - 2. 5141.27 First Aid/Emergency Medical Care
 - 3. 5144 Discipline
 - 4. 5145.111 Students/Probation/Police/Courts
 - 5. 5145.12 Student Search and Seizure
 - 6. 5145.122 Use of Dogs to Search School Property
 - 7. 5145.14 Students On Campus Recruitment
 - 8. 5157 Use of Physical Force and Seclusion

Students

Psychotropic Drug Use

The Board of Education prohibits all school personnel from recommending the use of psychotropic drugs for any student enrolled within the school system. For purposes of this policy, the term “recommend” shall mean to directly or indirectly suggest that a child use psychotropic drugs.

Psychotropic drugs are defined as prescription medications for behavioral or social-emotional concerns, such as attentional deficits, impulsivity, anxiety, depression and thought disorders and includes, but is not limited to stimulant medications and anti-depressants.

School health or mental health personnel (nurses, nurse practitioners, medical advisers, psychologists, and social workers) may recommend to a parent or guardian that a child be evaluated by an appropriate medical practitioner. In addition, school health and mental health personnel may request written consent from a parent or guardian to communicate about such child with a medical practitioner outside the school.

Communications between and among school health, mental health personnel and other school personnel (school nurse, school psychologist or school social worker) pertaining to a child in possible need of a recommendation for a medical evaluation shall be accomplished through the District’s established child study teams, Section 504 Team and/or the planning and placement team and its procedures, in conformity with state and federal special education statutes.

The Board recognizes that the refusal of a parent or other person having control of a child to administer or consent to the administration of any psychotropic drug to the child shall not, in and of itself, constitute grounds for the Department of Children and Families (DCF) to take such child into custody or for any court of competent jurisdiction to order that such child be taken into custody by the Department, unless such refusal causes such child to be neglected or abused, as defined in C.G.S. 46b-120.

The Superintendent of Schools or his/her designee shall promulgate this policy to district staff and parents/guardians of students annually and upon the registration of new students.

(cf. 5141.4 - Reporting of Child Abuse and Neglect)

Legal Reference: Connecticut General Statutes

10-212b Policies prohibiting the recommendation of psychotropic drugs by school personnel.

46b-120. Definitions

Students

Psychotropic Drug Use

Legal Reference: Connecticut General Statutes (continued)

10-76a Definitions.

10-76b State supervision of special education programs and services.

10-76d Duties and powers of boards of education to provide special education programs and services.

10-76h Special education hearing and review procedure. Mediation of disputes.

State Board of Education Regulations.

34 C.F.R. 3000 Assistance to States for Education for Handicapped Children.

United States Code

American with Disabilities Act, 42 U.S.C. §12101 *et seq.*

Individuals with Disabilities Education Act, 20 U.S.C. §1400 *et seq.*

Rehabilitation Act of 1973, Section 504, 29 U.S.C. § 794.

Policy adopted: October 8, 2002
Policy revised: August 26, 2003
Policy revised: June 12, 2007
Policy revised: May 14, 2013

NEW MILFORD PUBLIC SCHOOLS
New Milford, Connecticut



POWER PURCHASE AGREEMENT

This Power Purchase Agreement (this "Agreement") is made and entered into this ____ day of ___, 2012 (the "Effective Date"), by and between ___, a _____ corporation ("Customer") and MERCURY COMMERCIAL FINANCE, a Delaware corporation ("System Owner"). Each of Customer and System Owner is sometimes referred to as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, System Owner is developing a solar photovoltaic energy system of an estimated ____ watts (DC) peak capacity, as further described and depicted on **Exhibit A** (the "Project") to be located on certain real property and premises (the "Property") owned by _____ (the "Site Owner") and more particularly described on **Exhibit B** (the "Site");

WHEREAS, System Owner will perform or cause to be performed all work for the design, engineering, procurement, installation, construction, start-up and commissioning of the Project at the Site for the purpose of generating electricity; and

WHEREAS, Customer desires to purchase the electricity generated by the Project in accordance with the terms and conditions set forth in this Agreement;

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

1. DEFINITIONS.

1.1 Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in this **Section 1**.

"Access Rights" shall have the meaning assigned in Section ____;

"Applicable Law" shall have the meaning assigned in Section ____;

"BES" means Customer's existing building electrical systems that are owned or leased, operated, maintained and controlled by Customer, and which systems are interconnected with the Local Electric Utility;

"Commercial Operation Date" shall have the meaning assigned in Section ____;

"Confidential Information" means information provided by either party to the other under this Agreement during the Term, including without limitation, technical, business, financial and marketing information, and descriptions of the existence or state of progress of that information. A party's Confidential Information includes, without limitation, any and all copies, notes, analyses, compilations, studies, interpretations, and summaries of that information prepared by or for the other party;

"Customer" shall have the meaning assigned in the Recitals to this Agreement;



«OPPORTUNITY_CUSTOMER_NAME»

“Customer Data” means any information Customer furnishes to System Owner pursuant to this Agreement concerning energy usage for and other information pertaining to the Premises, including but not limited to the following: (a) Utility and any other energy service provider records for the 12-month period preceding the Effective Date; (b) Any energy or environmental audits relating to all or any part of the Premises; (c) Any service or maintenance agreement(s) regarding the BES, or any part thereof; and (d) Construction drawings (“as-builts”) for the Premises in existence as of the Effective Date.;

“Delivery Point(s)” means the physical location at which each Installation connects to the BES, as designated in Exhibit A and the Local Electric Utility Interconnection Agreement;

“Dispute Deadline” shall have the meaning assigned in Section ____;

“Due Date” shall have the meaning assigned in Section ____;

“Early Termination Payment” shall have the meaning assigned in Section ____ and Exhibit ____;

“Effective Date” means the later date that a Party executes this Agreement;

“Environmental Credits” shall have the meaning assigned in Section ____;

“Event of Default” shall have all of the meaning assigned in Section ____;

“Fair Market Value” shall have all of the meaning assigned in Section ____;

“Force Majeure Event” means acts of God such as storms, fires, floods, lightning and earthquakes, sabotage or destruction by a third party of the System, war, riot, acts of a public enemy or other civil disturbance, or a strike, walkout, lockout or other significant labor dispute; Force Majeure Event does not mean economic hardship of either Customer or System Owner, a power grid failure (except if caused directly by a Force Majeure Event), a failure or delay in the granting of permits, or insufficiency, unavailability, failure, or diminishment of solar resources, except as a result of an event that would otherwise qualify as a Force Majeure Event;

“Initial Term” shall have the meaning assigned in Section ____;

“In-Lieu Fees” shall have the meaning assigned in Section ____;

“Installation Work” shall have the meaning set forth in Section ____;

“Lender” means the entity that System Owner secures to provide financing for the Project;

“Net Metering Arrangements” means arrangements to deliver and sell to the Local Electric Utility at the interconnection point between the BES and the Local Electric Utility any Output that exceeds Customer’s demand for, or ability to consume, electricity during the Term;

“O & M Services” shall have the meaning assigned in Section ____;

“Output” shall have the meaning assigned in Section ____;



«OPPORTUNITY_CUSTOMER_NAME»

“Parties” shall have the meaning assigned in the Introduction;

“Premises” means Customer’s property, as described in Exhibit A;

“Site” means the areas on the Premises on which the System Owner will install the System, as described in Exhibit A.

“Site Access Notice” shall have the meaning assigned in Section 7.1;

“EPC Agreement” means the Engineering, Procurement, and Construction Agreement to be entered into between System Owner and EPC Contractor;

“System” means all equipment, facilities and materials, including photovoltaic arrays, DC/AC inverters, wiring, Meters, monitoring software, tools, and any other property now or hereafter installed, owned, operated, or controlled by System Owner for the purpose of, or incidental or useful to maintaining the use of the System and providing Output to Customer at each Delivery Point, and as it may be modified during the Term. The System excludes any part of the BES.

“System Owner” shall have the meaning set forth in the Recitals;

“Term” shall have the meaning set forth in Section 1; and

“Utility” means the local provider of electric transmission, distribution and/or commodity and interconnection services to the Customer.

2. TERM.

The term (the “Term”) of this Agreement shall commence on the Effective Date and shall continue until the twentieth (20th) anniversary of the Commercial Operation Date (such 20-year period, the “Initial Term”), unless extended or terminated earlier pursuant to the terms and conditions contained herein.

3. INSTALLATION OF SYSTEM

3.1. Scope of Installation Work. At its sole cost and expense, System Owner shall secure all necessary approvals and permits and shall design, build, install, maintain, and operate the System consistent with the technical specifications set forth in Exhibit A. System Owner shall further cause the System to be designed, engineered, installed, and constructed in accordance with industry standards and prevailing prudent industry practices by contractor(s) licensed to undertake such work in accordance with applicable laws and regulations, including compliance with all other applicable environmental laws and regulations.

3.2. EPC Contractor(s). System Owner may hire licensed independent contractors to design, engineer, procure for, construct, install, service and/or test the System (the “EPC Contractor”). System Owner shall have the right to enter into contracts with any Person, EPC Contractor, and/or other service



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or material providers as System Owner shall select in its discretion to perform its obligations under this Agreement.

3.3. Location of System. The System will be located on the Site. The Parties acknowledge that there may be multiple Installations at various locations on the Site.

3.4. Construction Period.

3.4.1. *Commencement of Construction.* At any time, upon at least ten (10) Business Days notice to Customer, System Owner may commence installing the Project on the Premises.

3.4.2. *Construction Status Updates.* System Owner shall give Customer regular updates, on a reasonable schedule requested by Customer, on the progress of installation of the Project and shall notify Customer of when System Owner will commence testing of the Project.

3.4.3. *System Testing and Commercial Operation Date.* Customer shall have the right to have its representatives present during the testing process, but subject to reasonable written rules and procedures as may be established by System Owner and EPC Contractor. After System Owner has determined, in its reasonable judgment, that the Project meets the requirements of the Utility, has been installed in accordance with all Applicable Laws, and is capable of producing electricity on a continuous basis, System Owner shall notify Customer that installation of the Project is complete and shall specify the Commercial Operation Date for the Project, which may be immediately upon delivery of such notice to Customer. All electricity produced by the Project prior to the Commercial Operation Date shall be delivered to Customer and Customer shall pay for such electricity at the rate applicable to the first year of commercial operation but in no event greater than the rate otherwise payable by Customer to the Utility.

3.5. Adequate Space for Construction. Customer shall provide System Owner and its contractors adequate space on the Premises during the Construction Period for System Owner's construction and installation of the System, including reasonable staging and laydown areas.

3.6. Modification. As of the date hereof, System Owner anticipates that the Project shall consist of the components and shall have the designs set forth in Exhibit A attached hereto. Notwithstanding the foregoing, System Owner has the right to modify the design of the Project, including the selection of the components in the Project, as System Owner, in its sole discretion, may determine, provided, however, that such changes shall not result in the Project exceeding the nameplate capacity, building footprint, location, and height set forth in Exhibit A, without Customer's approval.

3.7. Roof Warranty. System Owner shall cause the System to be designed, constructed, and maintained in such a manner so as to not void existing roofing warranties, if applicable, while following prudent industry practices and in accordance with existing roofing manufacturer's specification(s). If there is no warranty, System Owner shall cause the System be installed using prudent industry practices to prevent damage to the roof. System Owner shall provide documentation from the EPC Contractor that the existing roof(s) was not damaged and any construction will not void warranty. EPC Contractor shall obtain appropriate assurances from roofing warranty providers wherever possible.

3.8. Termination of Development Activities. At any time, System Owner shall have the right to cease development of the Project, for any reason, in its sole discretion. If System Owner gives Customer notice of such determination, this Agreement shall terminate effective as of the delivery of such



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notice without any further liability of the Parties to each other, provided that (a) System Owner shall remove any equipment or materials which System Owner has placed on the Site; (b) System Owner shall restore any portions of the Site disturbed by System Owner to its pre-existing condition; (c) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (d) the confidentiality provisions of Section 23, the indemnity obligations under Section 20 hereof, and the dispute resolution provisions of Section 21 hereof shall continue to apply notwithstanding the termination of this Agreement.

4. INTERCONNECTION

4.1. Interconnection to BES. System Owner is responsible for the interconnection of the System to the BES and is solely responsible for all equipment, maintenance, repairs and inspections associated with such interconnection equipment in accordance with the terms and conditions of this Agreement. Customer is responsible for the operation, maintenance, repair and inspection of the BES at and from each Delivery Point, and such other maintenance and upgrades as may be required by the Utility or applicable laws, regulations, ordinances, and codes.

4.2. Interconnection Authorizations. Customer shall execute the Utility Interconnection Agreement. In addition, Customer, with System Owner's assistance, shall obtain all permits, approvals, and other authorizations that may be required by any Governmental Authority or by the Utility in connection with the interconnection of the System to the BES, the purchase of the Output, the flow of electricity from the System to the Utility's system to the extent such electricity is not consumed by Customer, including the Net Metering Arrangements. Customer shall comply with and maintain such permits, approvals, and authorizations described in Section ____ in effect at all times during the Term, and at all times during the Term shall maintain Net Metering Arrangements and such other authorizations necessary for the flow of Output from the System to the Utility's system to the extent such Output is not consumed by Customer.

4.3. Customer Obligations. Customer shall be responsible for maintaining and fulfilling all obligations to its Utility and any other electric service provider, including with respect to interconnection service, power supply service, and Net Metering Arrangements, and meeting all requirements imposed by its interconnected Host Utility and/or other electric service provider and any applicable state or local regulatory authorities with respect to such services and to the purchase of the Output.

5. SOLAR POWER PURCHASE AGREEMENT

5.1. Delivery Point. Title to, risk of loss, and custody and control of, the Output shall pass from System Owner to Customer at each Delivery Point. The electric energy from the System shall be delivered from System Owner to Customer at the specifications set forth in Exhibit A and shall be in compliance with the requirements of the Utility.

5.2. Sale and Delivery of Output. Customer shall purchase one hundred percent (100%) of the Electricity generated and delivered by the System, whether or not Customer is able to use all such electric energy. Customer agrees that it shall consume the Output as its primary supply to meet its electricity demand.



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5.3. Solar Electricity Price. Customer shall pay System Owner for solar electricity at the price set forth in Exhibit ____.

5.4. Power Production. The System is estimated to have an approximate annual aggregate generating capacity as set forth in Exhibit ____, with the Output from the System varying based on time of day, season, time of year, temperature, weather, and the like. System Owner does not warrant or guarantee the amount of electric energy to be produced by the System for any hourly, daily, monthly, annual, or other period. System Owner is not a utility or public service company and does not assume any obligations of a utility or public service company to supply Customer's electric requirements. System Owner is not subject to rate review by governmental authorities.

5.5. No Resale of Electricity. Except as contemplated by the provisions of Section 19, the electricity purchased by Customer from System Owner under this Agreement shall not be resold, assigned, or otherwise transferred to any other person without prior approval of the System Owner, which approval shall not be unreasonably withheld, and Customer shall not take any action which would cause Customer or System Owner to become a utility or public service company.

5.6. Taxes. Customer acknowledges that the Price does not include sales or transfer taxes. In the event that any taxes are assessed against, or calculated by reference to, the sale of Output, or the payment by Customer of the Price, or the assignment or other transfer of the System to Customer pursuant to any right or option to purchase the System or otherwise take title to the System, Customer is responsible for such taxes and shall pay same when due. Without limiting the generality of the foregoing, in the event that System Owner is required to pay or otherwise collect and remit such taxes in accordance with Applicable Law, Customer shall promptly reimburse System Owner for the full amount of such taxes. To request reimbursement or payment for such taxes, System Owner shall invoice Customer for same in accordance with the procedures provided in Section ____; provided, however, System Owner shall notify Customer as promptly as practicable of its obligation to collect and remit such taxes following its discovery of same.

5.7. Invoice Calculations. Each month, System Owner shall prepare and provide Customer an invoice for the Output delivered in the prior month. The amount due for the Output shall be determined by multiplying the Solar Electricity Price per kWh then in effect by the Output delivered (or deemed delivered) to Customer during such month, and each invoice shall set forth in reasonable detail the calculation of all amounts owed to System Owner. Delays in the issuance of any such invoice shall not constitute any waiver of Customer's obligation to pay, or System Owner's right to collect, any payment under any such invoice.

5.8. Timing and Method of Payment. Subject to its contest rights set forth herein, Customer shall pay the full amount of each invoice (without any set-off or deduction, except as may expressly be permitted hereunder) on or before the thirtieth (30th) calendar day following receipt thereof ("Due Date"). Unless otherwise directed in writing by System Owner, all payments made by Customer under this Agreement shall be by electronic funds transfer pursuant to the instructions set forth in Exhibit ____ attached hereto, or by check payable to System Owner at the address for notices set forth in Section 22, as such instructions or address may be modified by System Owner by written notice to Customer.



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5.9. Late Fees. All payments which are not paid by the Due Date shall bear interest accruing from the date becoming past due until paid in full at a rate equal to one and a half percent (1.5%) per month, compounding monthly.

5.10. Disputed Invoices. If Customer has a reasonable basis to dispute an invoice, Customer shall, within three (3) business days of receipt of the disputed invoice (the "Dispute Deadline"), notify System Owner in writing with an itemized statement of its objections setting forth in reasonable detail the basis for its dispute. The contested portion of any invoiced amount shall not relieve Customer of its obligation to pay the uncontested portion of such invoice as set forth in Section 22. If Customer does not object prior to the Dispute Deadline, System Owner shall be obligated to pay the full amount of such invoices.

5.11. Net Metering & Utility Credits. At any time that electric production from the System is greater than Customer's requirements at such time, Customer shall nevertheless pay System Owner for all of the electricity produced by the System at the rates and in the manner provided in this Agreement. Customer may make arrangements with the Utility so that power in excess of Customer's requirements may be delivered to the Utility through the Point of Delivery and Customer shall receive any credits or payments from the Utility that may be available under net metering or similar programs. If Applicable Law or the practice of the Utility restricts the ability of the Customer to deliver electricity produced by the System to the Utility, then the Parties shall agree on alternate arrangements to enable Customer, insofar as possible, to receive benefits from the Utility comparable to those available under net metering programs, provided that the economic benefits to System Owner remain as provided in this Section ____.

6. METERING

6.1. Installation of Meters. System Owner shall install one or more meters at the Site, as System Owner deems appropriate, to measure the amount of Output delivered by System Owner to Customer.

6.2. Ownership, Operation, and Maintenance of Meters. System Owner owns, operates, and maintains each Meter during the Term at its own expense.

6.3. Meter Reading. System Owner shall read each Meter at the end of each calendar month, and shall record the Output delivered to Customer. Data retrieved from such Meter readings shall serve as the basis for monthly invoicing as described in Section _____. The records from the Meters shall be made available to Customer within a reasonable time upon written request.

6.4. Meter Calibration. System Owner shall conduct tests of the meters at such times as it deems appropriate in accordance with industry standards, but not less than once in any two (2) year period. Customer shall pay for any testing in excess of such minimum testing if the results of such tests indicate that a Meter is accurate within plus or minus two percent (2%).

6.4.1. If upon testing, any Meter is found to be accurate within plus or minus two percent (2%), then previous recordings of such Meter shall be deemed accurate in computing deliveries of Output hereunder.

6.4.2. If upon testing, any Meter is be found to be inaccurate by an amount exceeding plus or minus two percent (2%), then previous recordings by such Meter shall be corrected to zero error.



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The measurements of such Meter shall be determined by the alternative methods set forth in Section _____. If the period over which such Meter registered inaccurately may not be reliably ascertained, it shall be assumed for purposes of correcting previously delivered invoices, that such inaccuracy began at a point in time midway between the date on which such Meter was tested and found to be inaccurate by an amount exceeding plus or minus two percent (2%) and the prior date on which such Meter was last tested and found to be accurate within plus or minus two percent (2%); provided that in no event shall the Meter inaccuracies be deemed to have been ongoing for a period beyond six months.

6.4.3. If upon testing, any Meter is found to be in error by more than plus or minus two percent (2%), then the payments for Output made since the previous test of such Meter shall be adjusted to reflect the corrected measurements. If the difference in the previously invoiced amounts minus the adjusted payment is a positive number, that difference will offset amounts owing by Customer to System Owner in subsequent month(s). If the difference is a negative number, the difference shall be added to the next month's invoice and paid by Customer to System Owner on the Due Date of such invoice.

6.5. Alternative Measures in Case of Meter Malfunction. In the event a Meter is out of service or registers inaccurately, the measurement of a Meter shall be determined by the following alternatives, in the following order: (a) any alternative or back-up meter that System Owner may have installed, if registering accurately, (b) a mathematical calculation, if upon a calibration test of such Meter, a percentage error is ascertainable, or (c) estimates of deliveries of Output by reference to quantities measured during periods of similar conditions when such Meter was registering accurately. System Owner shall promptly repair or adjust Meters found to be registering inaccurately.

6.6. Remote Monitoring. System Owner shall provide remote monitoring access to Customer that enables Customer to see how the System is functioning on a daily basis.

6.6.1. Data acquisition system. System Owner shall furnish online access to the Data Acquisition System to the extent that the online access described in Section 6.6.2 is provided.

6.6.2. Internet Access. Customer shall make available to System Owner at all times during the Term an internet connection between the System and a data acquisition system to monitor System performance. Customer shall provide System Owner: (i) the right to connect equipment for monitoring the System and its production to Customer's intranet and/or internet networks so as to allow System Owner, or its subcontractors, to remotely monitor the System and its production and communicate data from the revenue-grade performance monitoring system, and (ii) a working Ethernet connection to an intranet and/or internet network in the area of Customer's electrical equipment with bypass of firewalls or right to locate a datalogger within firewalls.

7. TITLE TO SYSTEM

7.1. System Ownership. Throughout the Term of this Agreement as between System Owner and Customer, System Owner shall be the legal and beneficial owner of the System. Customer further acknowledges and agrees that Customer has no right, title, or interest in the System and System Owner is the exclusive owner and operator of the System.

7.2. No Encumbrances on System. Customer shall not sell, lease, assign, mortgage, pledge, lien, or otherwise alienate or encumber the System. It is the intent of the Parties that the System is, and



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shall remain, personal property of System Owner and shall not attach to or be deemed a part of, or fixture to, the Premises or the Site, notwithstanding the way it may be affixed to realty. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Customer shall pay for and obtain all consents required for it to enter into and perform its obligations under this Agreement from its lenders, landlord, tenants, and any other persons with interests in the Site. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System, Customer shall promptly, upon request of System Owner (alternative: use commercially reasonable efforts), provide an acknowledgement and consent from such lien holder, in form and substance reasonably acceptable to Lender, stating that the ownership of the System remains in System Owner and further acknowledging that the System is personal property of System Owner and agreeing not to disturb the rights of System Owner in the System and under this Agreement. If Customer is the fee owner of the Premises, Customer consents to the filing of a disclaimer of the System as a fixture of the Premises in the Land Registry. If Customer is not the fee owner, Customer shall obtain such consent from such owner of the Premises. Such acknowledgment and consents, or acceptable notices thereof, shall be recorded, at Customer's expense, in the appropriate Land Registry. Customer may in the future mortgage, pledge, and grant security interests in all or a portion of the Site and the improvements thereon, provided the mortgagee or other grantee of the encumbrance acknowledges this Agreement, the System, the Access Rights granted hereunder, and the priority of System Owner's (and/or Lender's) rights in the System and the Access Rights.

7.3. Ownership of Permits. All permits and approvals obtained by or on behalf of System Owner in the course of performing its obligations hereunder shall be owned and controlled by System Owner. To the extent that any such permits or approvals must be obtained and/or owned by Customer, then Customer agrees that it will grant all material decision-making rights with respect to such permits and approvals to System Owner.

8. ACCESS TO SYSTEM

8.1. Access for System Owner. Customer shall provide System Owner adequate access to the Premises and the Site for System Owner's construction, installation, operation, maintenance, and, to the extent applicable, replacement, removal, of all or part of the System. Upon at least ten (10) days prior written or telephone notice to Customer (the "Site Access Notice") from System Owner, Customer shall provide System Owner exclusive access during those days and periods of time indicated in the Site Access Notice to those portions of the Premises and the Site to permit System Owner to construct and install each Installation. Without limitation of the foregoing sentences, Customer shall provide System Owner access to the Premises and the Site during regular business hours and otherwise upon reasonable request of System Owner and in the event of an emergency, to permit System Owner to access its equipment, read and test metering equipment and perform any other functions as may be necessary for System Owner to fulfill its obligations under this Agreement, including inspection, repair, replacement, construction, installation, removal, alteration, expansion, or calibration of the metering equipment and the System, subject to such reasonable supervision by Customer as Customer may require. System Owner and its employees, agents, contractors and assigns shall notify Customer prior to such entry, including 30-minutes prior notice in the event of emergency if such notice is reasonably possible, and shall use reasonable efforts to minimize disruption to Customer's operations. Notwithstanding anything else herein to the contrary, Customer shall indemnify and hold harmless System Owner from all costs, expenses and damages arising from Customer's failure to provide access to the Premises and the Site to System Owner in accordance with a Site Access Notice, including lost revenues resulting from the failure of the System



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to be available to produce Output and related Environmental Credits, whether or not pursuant to a contract for the purchase and sale of such Environmental Credits, and any damages incurred under any purchase and sale agreement entered into by System Owner for the sale of such Environmental Credits and all costs, expenses and damages incurred by System Owner under the EPC Agreement or the Operation and Maintenance Agreement.

8.2. Grant of License. Without limiting System Owner's rights as described elsewhere herein, this Agreement shall constitute a non-exclusive license for the Term granting System Owner reasonable access to, occupancy of and use of the Premises for System Owner to exercise its rights and meet its obligations hereunder, including interconnection with the BES. Furthermore, for the Term of this Agreement, Customer hereby grants to System Owner, at no cost to System Owner, the exclusive license to use, have access to, modify and store its equipment on the Site as reasonably necessary to perform Monitoring, the Installation Work, the O&M Services, other activities in the performance or provision of the System Owner Services, or any activities necessary to remove the System to the extent required by Section ____; provided, however, Customer reserves the right to grant additional licenses, easements, leases, or rights of way, whether recorded or unrecorded, that do not unreasonably interfere with System Owner's use of the Site and System.

8.3. Access by Customer. Because the System is located on the Premises, the Parties acknowledge that Customer has access to the Site for maintenance, safety, security, and emergency purposes. Without limitation of the provisions of Section ____, Customer shall take reasonable precaution so that the operation of the System is not disrupted, and the System is not damaged as a result of actions or inactions of Customer or its designee(s) or invitees.

8.4. Security and Prevention of Unauthorized Access. At all times during this Agreement, including both the installation of the System and its subsequent operation, Customer shall provide security for the System consistent with its normal security procedures, practices, and policies that apply to all Customer Premises, including the System. In addition, Customer shall provide and take reasonable measures, including, without limitation, commercially reasonable monitoring of the Site's alarms, for security of the System and to protect the System against loss, theft, damage, and vandalism. Customer shall advise System Owner immediately upon observing any damage to the System. Upon request by System Owner, such as System Owner receiving data indicating irregularities or interruptions in the operation of the System, Customer shall, as quickly as reasonably practicable, send a person to observe the condition of the System and report back to System Owner on such observations.

9. MAINTENANCE, USE OF PREMISES, AND DISRUPTION OF DELIVERY

9.1. System Owner Obligations.

9.1.1. Operation and Maintenance Services. Subject to Section 9.2.1 below, System Owner shall provide operation, repair, monitoring, and maintenance services to the System during the Term, including the monitoring and maintenance of metering equipment determining the quantity of electricity produced by the System (collectively, the "O&M Services"). System Owner shall perform the O&M Services in a manner intended to limit inconvenience to and interference with Customer and Customer's invitees' and customers' use of the Site as is commercially practical. System Owner is responsible for the costs of all repairs to the System and replacement of any malfunctioning parts.



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9.1.2. O&M Services shall be coordinated with the appropriate Customer personnel responsible for the Site. Customer shall designate two (2) individuals with whom System Owner (or its delegate) shall contact for purposes of coordinating O&M Services. Such individuals may be changed from time to time upon notice to System Owner of same.

9.1.3. *O&M Contractors.* System Owner may delegate the O&M Services under this Agreement and shall have the right to enter into contracts with any Person and other service or material providers as System Owner shall select in its discretion to perform its O&M Services under this Agreement.

9.1.4. *System Owner's Interruption of Output.* Notwithstanding anything to the contrary herein, System Owner shall have the right to interrupt, reduce or discontinue the delivery of Output for purposes of inspection, maintenance, repair, replacement, construction, installation, removal or alteration of the equipment used for the production or delivery of Output, or at the direction of authorized Governmental Authorities or electric utilities. Other than in the event of unexpected interruptions or in the event of an emergency, System Owner shall give Customer at least five (5) Business Days notice prior to an interruption of Output deliveries and an estimate of the expected duration of the interruption.

9.1.5. *Safety Shutdown.* System Owner shall not be required to supply Output to Customer at any time System Owner reasonably believes the BES to be unsafe. But in no event will System Owner have any responsibility to inspect or approve the BES.

9.1.6. *Cost to Restore Service Following Interruption.* System Owner shall bear any costs associated with restoring service following any interruption of the supply of Output from the System as a result of System Owner's operation of the System. Customer shall bear the costs associated with the restoration of the delivery of Output if an interruption of such supply of electricity is caused by the actions or inactions of Customer or the condition of the BES, the Premises or the Site.

9.2. Customer Obligations.

9.2.1. *Customer Responsible for Maintaining Surrounding Premises.* Customer is solely responsible for the repair, maintenance, and replacement of the Premises, including the Site; provided, if such repair, maintenance, or replacement is caused by the negligence or intentional misconduct of System Owner or its agents, contractors, or assigns, then System Owner shall be responsible for such costs to the extent such negligence or intentional misconduct was the cause of same. Customer and System Owner shall coordinate such activities so as to minimize disruption to the System.

9.2.2. *Notice of Malfunction.* Customer shall notify System Owner within twenty-four (24) hours following its discovery of any material malfunction in the operation of the System (a "Malfunction"), including, without limitation, any interruption in the supply of System Owner Services. System Owner shall commence repairs to a Malfunction and restore the supply of System Owner Services as soon as reasonably possible after any notice received from Customer thereof or upon its own discovery of any such. It is understood that O&M Services are to be provided by the System Owner and the Customer role is to assist in notification in the event of a malfunction.

9.2.3. *Non-Interference.* Customer may not adjust, modify, maintain, alter, service, or in any way unreasonably interfere with the System, except as authorized in writing by System Owner or



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in the event of an emergency where there is an imminent threat to life or property; provided that Customer shall give System Owner (or its contractor) immediate notice in such event.

9.2.4. Obstructions. Customer shall not install or permit to be installed on the Premises or the Site (or any other property owned or controlled by Customer) any physical obstruction that has or could reasonably be expected to have the effect of reducing Output. Furthermore, Customer shall take all reasonable measures to prevent buildings, structures or flora from overshadowing or otherwise blocking the System's access to sunlight. Customer, with advice and consent of System Owner, may trim, remove, etc., flora to optimize system. In the event that any obstruction that could reasonably be expected to reduce the Output is proposed to be erected or installed on property other than the Premises or the Site, Customer shall promptly deliver to System Owner copies of any notice relating thereto received by Customer and System Owner shall have the right to intervene or to direct Customer to intervene (at System Owner's expense) in any proceeding or otherwise contest the installation or erection of any such obstruction; provided, that in the event that any such obstruction is nonetheless installed or erected, System Owner shall have the right to terminate this Agreement without penalty to Customer.

9.2.5. Use of Premises. Customer agrees that it intends to continue to use the Premises (other than the Site) in a manner similar to its present use throughout the Term, except as may have been disclosed to System Owner by Customer in writing. Customer shall give reasonable prior notice to System Owner of any material modification of the Premises or change in the use of the Premises that could have an impact on the operation of the System or on Customer's consumption of Output. In the event that Customer makes a modification of the Premises or change in the use of the Premises that would have an impact on the operation of the System or on Customer's consumption of Output or otherwise have the effect of reducing Output (including, new construction, shading or reduced load at the Site), the Parties shall attempt in good faith to amend this Agreement so as to restore to System Owner the economic benefits of this Agreement prior to such modification or change. If the Parties are unable to reach agreement on an amendment within thirty (30) days of the date Customer notifies System Owner of such change or modification, System Owner shall have the right to terminate this Agreement and Customer shall be obligated to purchase the System, by delivery of either a money order or certified check, or of immediately available funds by wire transfer or money transfer to an account designated by System Owner, for an amount equal to the Early Termination Payment.

9.2.6. Temporary Shutdown of System. Except in the event of emergency, if (a) at any time, repair or replacement of any part of the Premises or the Site requires that the System (or any portion of the System, as applicable) be shut down, disconnected, moved or removed; or if (b) during the term of this Agreement, any shutdown, renovations, or damage to the System occurs due to any building repairs, renovations, or any other actions or causes arising from the Customer or its agents, which significantly reduces or eliminates the production of electricity from the System or requires the temporary shutdown of the System; then (x) for anticipated events that will necessitate a temporary shutdown, Customer shall notify System Owner not less than thirty (30) days prior to the commencement of such work; (y) in all necessary instances, System Owner shall arrange for the shut down, disconnection, or removal and storage of the System (or affected portion of the System, as applicable) as applicable, at Customer's expense; and (z) as applicable, upon completion of the repair or replacement, Customer shall notify System Owner, and, at Customer's expense, System Owner shall reinstall, connect and start up the System at the Site as soon as practicable. In the event and to the extent that during the period of such repair or replacement, the System (or affected portion of the System, as applicable) is unable to deliver



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Output to Customer, Customer shall be obligated to make payment to System Owner in accordance with Section 8.2.7.

9.2.7. *Disruption in Delivery.* In the event that the System is capable of generating and delivering Output to Customer, but Customer does not or cannot accept delivery of such Output (except for a Force Majeure event, the actions or requirements of the Utility, the System Owner or the Developer and Integrator), Customer agrees to pay System Owner:

OPTION 1: the sum of (a) the product of (i) the number of kilowatt hours of Electricity not delivered or accepted, determined during the first year of the Service Term on the basis of the Output estimates provided in Exhibit ____ (Monthly Estimates) and thereafter on the basis of the System performance (in each case adjusted for prevailing conditions) *multiplied by* (ii) the Solar Electricity Price *plus* (b) the value of the Environmental Credits associated with such kilowatt hours determined in accordance with clause (a) of this Section that were not available due to such delivery disruption, based upon market value of such Environmental Credits reasonably determined by the existing agreement for the purchase and sale of the System's Environmental Credits, if such agreement is in place, or market data (determined by spot market quotes from at least three reputable brokers), if such an agreement is not in place.

OPTION 2: In-Lieu Fees based on the actual payments for electricity made by the Customer on a daily basis during the same period in the previous calendar year, unless System Owner and Customer agree to an alternative In-Lieu methodology. In the event of any instance of temporary shutdown(s) exceeding seven (7) days per annual period, the In-Lieu Fees shall additionally include compensation to System Owner for the value of the lost Environmental Credits for the period(s) in excess of seven (7) days, as determined by the weighted average prevailing Environmental Credit price at the time of the shut down.

9.2.8. *Emergency Procedures.* Customer shall make a good faith effort to give twenty-four (24) to forty-eight (48) hour notice to System Owner prior to any unplanned System shutdown. In the event of an emergency shutdown, the Customer shall provide notice within two hours. Both the System Owner and Customer shall make every reasonable effort to contact appropriate emergency management personnel in the event of an emergency situation.

10. INCENTIVES

10.1. Incentives and Rebates. All Environmental Credits, including but not limited to applicable solar program incentives, or tax attributes relating to the installation or operation of the System, whether available directly or indirectly, shall be and shall remain the property of System Owner for the Term. System Owner shall have sole use of such Environmental Credits and shall have the exclusive right to use such Environmental Credits for itself, or to sell, transfer, grant, convey, assign, or otherwise dispose of such Environmental Credits to any other Person, in System Owner's sole discretion.



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Customer hereby grants, makes and conveys to System Owner an absolute and irrevocable assignment of any and all right, title and interest Customer may at any time have in or to any Environmental Credits.

10.2. Environmental Documentation. In connection with System Owner's rights and interests in this Section 10, Customer agrees to confirm System Owner's ownership of Environmental Credits and to fully cooperate with System Owner to the extent System Owner reasonably requests, including signing authorizations needed by System Owner, to obtain or transfer any Environmental Credits, including performance-based incentives payments to be made under any incentive program offered by a utility company, a third-party provider or the State or in System Owner's sale, transfer, grant, conveyance, assignment or disposition of all or any part of its right, title and interest in and to the Environmental Credits from time to time.

11. COOPERATION

11.1. Cooperation Regarding Approvals. Customer shall (i) provide reasonable assistance to System Owner in completing applications for approvals and consents with respect to which System Owner has primary responsibility; (ii) take whatever actions are reasonably necessary or requested by System Owner, including, without limitation, completing and executing documentation, in order for the System and/or the production thereof to comply with or qualify for any state and federal government subsidies; and (iii) execute all financing statements, notices and other filings that System Owner reasonably requests to perfect System Owner's rights in the System.

11.2. Customer Data. Customer shall furnish, or cause others to furnish, to the System Owner accurate and complete Customer Data. Customer also shall provide System Owner a copy of its Comprehensive Annual Financial Report, together with any related Independent Auditor's Reports, within ninety (90) days after the end of each fiscal year of Customer. If required by System Owner's Lender or Lenders, Customer shall provide those historical versions of its Comprehensive Annual Financial Report, together with its related Independent Auditor's Reports, as requested by such Lender or Lenders.

11.3. Utility Bill Access. Customer shall provide Provider electronic access to electronic bill notifications (if available) from its then-current Utility. All transmitted information shall be treated confidentially in accordance with this Agreement.

11.4. Financing Cooperation. Customer shall cooperate with System Owner in obtaining financing for the System, and shall consent in writing to the collateral assignment of this Agreement and provide other acknowledgments and certifications in respect of this Agreement as may be reasonably requested by a Lender, including as provided in Exhibit ____.

11.4.1. Acknowledgement and Confirmation. Within ten (10) Business Days following the request of any Lender, System Owner and Customer shall complete and submit to the Lender or the Lenders, as applicable, the Acknowledgement and Confirmation document substantially in the form set forth in Exhibit ____ hereto, or as otherwise reasonably requested by the Lender or Lenders.

11.5. Further Assurances. Each Party shall use its reasonable efforts to implement the provisions of this Agreement, and for such purpose each, at the request of the other, shall, without further consideration, promptly execute and deliver or cause to be executed and delivered to the other such



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assignments, consents or other instruments in addition to those required by this Agreement, in form and substance satisfactory to the other, as the other may reasonably deem necessary or desirable to implement any provision of this Agreement or to arrange financing for the System

12. CONDITIONS TO SYSTEM OWNER'S OBLIGATIONS

12.1. System Owner shall have no obligations under this Agreement, and System Owner shall have no obligation to proceed with construction and installation of the System, unless the following conditions precedent have been satisfied or waived by System Owner on or prior to <DEADLINE DATE>:

12.1.1. Legal Opinion. Contemporaneous with the execution and delivery of this Agreement, Customer shall obtain and provide to System Owner a legal opinion from its counsel regarding, among other items: the enforceability and due authorization, execution and delivery of this Agreement with respect to Customer; Customer has complied with and obtained all necessary consents required by applicable law; and the execution and delivery of, and performance of Customer's obligations under, this Agreement does not violate applicable laws, rules or regulations.

12.1.2. Internal Approvals. Customer's performance of the duties and obligations on its part to be performed under this Agreement shall have been approved by the governing body of Customer.

12.1.3. Credit Confirmation. Customer shall have a credit rating reasonably acceptable to System Owner.

12.1.4. Necessary Governmental Approvals. System Owner and, to the extent necessary, Customer shall have filed any applicable applications and certifications and shall have obtained all approvals, permits, licenses, and authorizations necessary (a) for the construction and installation of the System; (b) for the generation, sale, and purchase of Output to the Customer under this Agreement; and (c) for the certification of the Environmental Credits, and all such approvals, permits, licenses, and authorizations shall be in force and effect and not the subject of any pending appeal or other proceeding. A list of such currently anticipated approvals, permits, licenses, and authorizations is attached hereto as Exhibit ____.

12.1.5. Additional Consents and Approvals. System Owner shall have obtained from all applicable Persons (including Customer, if applicable) any necessary easements, leases, licenses, consents, and approvals and property and other rights System Owner deems necessary or desirable for the construction and installation of the System, the production and delivery of Output to each Delivery Point, and the operation and maintenance of the System under this Agreement. To System Owner's knowledge as of the Effective Date, Exhibit F sets forth such currently anticipated easements, leases, licenses, consents and approvals.

12.1.6. Installation Agreement. System Owner shall have entered into an EPC Agreement for the construction and installation of the System.

12.1.7. Financing. System Owner shall have obtained a financing commitment for the System from one or more Lenders or other third parties on terms acceptable to System Owner, in System Owner's sole discretion.



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12.1.8. Acknowledgement and Confirmation. System Owner and Customer shall have completed and submitted to any Lender or Lenders, as applicable, the Acknowledgement and Confirmation document substantially in the form set forth in Exhibit ____ hereto or as otherwise reasonably requested by the Lender or Lenders.

12.1.9. Roof. To the extent any Installation is to be located on a roof at the Premises, System Owner shall have received from the EPC Contractor for the System a written acknowledgment that the roof at the Premises and the Site, to the extent applicable, is adequate to support the subject System. Furthermore, System Owner shall have received from Customer's roof warranty provider, if applicable, a written waiver that installation of the System shall not compromise the roofing warranty.

12.1.10. Diligence. System Owner shall have had the opportunity to complete proper due diligence relating to Customer, the Premises, and the Site, including legal, accounting, and technical reviews. Such diligence shall also include visits by System Owner to the Premises, meetings between System Owner's management and Customer's management, and other due diligence activities reasonably deemed necessary by System Owner.

12.1.11. Environmental Benefits. System Owner shall have received a valid approval satisfactory to System Owner from the Environmental Credit program applicable to photovoltaic solar energy systems in Massachusetts, or a successor program thereto, for which the System will be eligible and shall receive the benefit of a long-term Environmental Credit sale and purchase agreements; the System shall have qualified for the investment tax credit available pursuant to the section 48 of the Internal Revenue Code of 1986, as amended; and the system shall have qualified for all other applicable Environmental Benefits.

12.1.12. Net Metering. If applicable, Customer, with cooperation from System Owner, shall have entered into Net Metering Arrangements and obtained all other approvals that may be required from the Utility to perform its obligations under this Agreement.

12.1.13. No Material Changes. System Owner determines that Customer's electricity requirements have remained consistent for the 12-month period preceding the Effective Date, and Customer shall not have experienced or reasonably anticipated any other material changes, including changes in its load profile, that could have a material adverse effect on the System, System Owner or System Owner's ability to remain eligible to participate in the Environmental Credit or other incentive program.

12.1.14. Security Policies. System Owner shall have reviewed and approved written policies to ensure the safety, security, and protection of the System from unauthorized access, including monitoring of the Site's alarms, if any (the "Security Policies").

12.1.15. Insurance. Customer shall have provided evidence of insurance as provided in Section 18 for the System satisfactory to System Owner.

13. TRANSFER OF SYSTEM OWNERSHIP

13.1. Purchase Options. Provided that Customer has fulfilled all obligations to System Owner under this Agreement, after the sixth (6th) anniversary of the [Effective Date /Commercial Operation Date] until the expiration of the Term, Customer shall have the option to purchase the System by



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notifying System Owner in writing, at least one hundred twenty (120) days prior to the end of the Service Term, that Customer intends to exercise its option under this Section 13, provided further that Customer gives System Owner at least two hundred fifty (250) days' prior written notice of the potential that it may exercise its option to purchase hereunder.

13.2. Sale or Lease of Site. In the event Customer transfers (by sale, lease or otherwise) all or a portion of its interest in the Site, Customer shall either (a) buyout the System as set forth in Section ____; or (b) if no Customer Event of Default has occurred and the transferee is acceptable to System Owner and Lender in their sole discretion and executes agreements assuming this Agreement in form and substance satisfactory to System Owner and Lender in their sole discretion, Customer may be released from further obligations under this Agreement.

13.3. Calculation of Purchase Payment. In all circumstances where Customer purchases the system from System Owner, Customer shall pay System Owner, by delivery of either a money order or certified check, or of immediately available funds by wire transfer or money transfer to an account designated by System Owner, an amount equal to the higher of (a) the fair market value of the System, or (b) the Early Termination Payment amount set forth in Exhibit ____ corresponding with the date on which such termination occurs, which amount shall be due and payable upon expiration of the Term.

13.3.1. Fair Market Value. "Fair Market Value" as used herein shall mean the price that a willing buyer (who is neither a lessee in possession nor a used equipment or scrap dealer) would pay for the System in an arm's-length transaction to a willing seller under no compulsion to sell; provided, that in such determination (i) the System shall be assumed to be in the condition in which it is required to be maintained, (ii) the System shall be valued on an installed basis, and (iii) costs of removal from Customer's Premises shall not be a deduction from such valuation. For any determination of Fair Market Value of the System, System Owner shall appoint, in its sole discretion, an independent appraiser with expertise in valuing the System and shall cause such determination, which shall be final, binding and conclusive, to be made within sixty (60) days after submission to such appraiser. For any other determination of Fair Market Value of the System required pursuant to this Agreement, if the Customer and System Owner are unable to agree on the fair market value of the System at least two hundred five (205) days before expiration of the Service Term (in the case of a determination for purposes of Section 12.1) or before the applicable anniversary date, System Owner shall appoint an independent appraiser with expertise in valuing the System (reasonably acceptable to Customer and to any of System Owner's Lenders) to determine the Fair Market Value of the System within sixty (60) days after submission to such appraiser, and that determination shall be final, binding and conclusive. System Owner and Customer shall share equally all costs associated with any such appraisal.

13.4. Transfer to Customer. Upon transfer of ownership of the System to Customer, System Owner shall have no further obligation with respect to the performance, installation, or operation of any part or component of the System; provided, System Owner agrees to pass through and to transfer to Customer any applicable manufacturers' warranties provided on the System, to the extent that such warranties are transferable and to the extent relating to the ownership and operation of the System from and after the transfer of ownership of the System, as well as all applicable solar renewable energy credits to the extent arising from and after the transfer of ownership of the System. In addition, upon such transfer of ownership, Customer shall accept the assignment of (i) all of System Owner's rights and obligations pursuant to any purchase and sale agreement for the System's Environmental Credits, to the extent arising from and after the transfer of ownership of the System and (ii) any agreement for the O&M



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Services on the System, as may be existing at the time of such transfer and to the extent relating to the O&M Services on the System from and after the transfer of ownership of the System.

13.5. Removal of System at Expiration. If Customer does not exercise its option to purchase the System pursuant to Section 12.1, at the end of the Term System Owner shall, at System Owner's expense, remove all of the tangible property comprising the System from the Site not later than ninety (90) days after such expiration or termination. System Owner shall leave the Site in the same condition as it was on the Effective Date except for any reasonable use and wear or damage by casualty, eminent domain or removal of the System. If System Owner fails to remove or commence substantial efforts to remove the System within sixty (60) days of the end of the Term, Customer shall have the right, at its option, to remove the System to a public warehouse at System Owner's expense. The Customer may also purchase the system at Fair Market Value. Also, the parties may mutually agree on any other arrangement that is legally permissible.

14. REPRESENTATIONS

14.1. Mutual Representations. In addition to any other representations and warranties contained in this Agreement, each Party represents and warrants to the other as of the Effective Date that:

14.1.1. It is duly organized and validly existing and in good standing in the jurisdiction of its organization and of the state in which the Premises are located;

14.1.2. It has the full right and authority to enter into, execute, deliver, and perform its obligations under this Agreement;

14.1.3. It has taken all requisite corporate or other action to approve the execution, delivery, and performance of this Agreement;

14.1.4. This Agreement constitutes its legal, valid, and binding obligation enforceable against such Party in accordance with its terms, subject to laws of bankruptcy, insolvency, reorganization, moratorium or other similar laws;

14.1.5. To the best of its knowledge, there are no court orders, actions, suits or proceedings at law or in equity by or before any governmental authority, arbitral tribunal or other body, or threatened against or affecting it or brought or asserted by it in any court or before any arbitrator of any kind or before or by any governmental authority that could reasonably be expected to have a material adverse effect on it or its ability to perform its obligations under this Agreement, or the validity or enforceability of this Agreement; and

14.1.6. Its execution of and performance under this Agreement shall not violate any existing Applicable Law, its organizational documents, or any agreement or other obligation to which it is a party or to which it is bound.

14.2. Customer Representations. In addition to the representations and warranties in Section 13.1, Customer hereby represents and warrants to System Owner, as of date hereof, that:

14.2.1. Electric Usage. Customer has provided to System Owner complete and correct records of its electric usage at the Site for the preceding [] years.



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14.2.2. Condition of Premises. Customer has provided to System Owner Customer's complete and correct records of the physical condition of the Premises. If it is discovered that the actual site conditions on part of, or on the entire Premises upon which all or part of the Project is to be installed, are materially different from the information presented by Customer, then if practicable the rates payable by Customer hereunder shall be adjusted to compensate System Owner for the cost of design and construction changes and delays incurred to adapt the System to the unknown conditions. If such adjustment is not practicable, System Owner shall have other rights under this Agreement.

14.2.3. Financial Information. The financial statements Customer has provided to Provider present fairly in all material respects the financial condition and results of operations of Customer.

14.2.4. Hazardous Substances. There are no hazardous substances (as such term is defined in any applicable federal or state environmental laws) either on or within the walls, ceiling, or other structural components, or otherwise located in the construction or installation area or otherwise the location of the Site, including, but not limited to, asbestos-containing materials; no conditions or situations exist at the Premises which are subject to special precautions or equipment required by federal, state or local health or safety regulations; and there are not any unsafe working conditions at the Premises. If any such hazardous substances are discovered at the Site, which were not brought to the Site by System Owner or anyone performing work or services on behalf or at the direction of System Owner, Customer shall be solely responsible for the prompt handling, remediation, reporting, and/or other requirements necessary to allow the System Owner to continue its obligations hereunder.

14.2.5. CUSTOMER EXPRESSLY AGREES THAT SYSTEM OWNER MAKES NO WARRANTIES AND ASSUMES NO LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, IN CONNECTION WITH THE SYSTEM, WHETHER EXPRESS OR IMPLIED, IN LAW OR IN COMMUNICATION BETWEEN SYSTEM OWNER AND CUSTOMER. CUSTOMER SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER SHALL HAVE NO REMEDIES AGAINST SYSTEM OWNER OR ANY DESIGNEE FOR ANY DEFECTIVE WORK INSTALLED. SPECIFICALLY, NEITHER SYSTEM OWNER NOR ANY DESIGNEE SHALL BE LIABLE TO CUSTOMER FOR LOSS OF PROFITS OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY.

15. EVENTS OF DEFAULT; LENDER CURE RIGHTS

15.1. System Failure to Perform. It is an Event of Default if, following the Commercial Operation Date, System Owner fails to provide any Output for a period of at least one hundred eighty (180) consecutive days during the Term ("Non-Delivery Period"); provided, that non-operation of the System for the duration of a Force Majeure Event or for any period during which Customer is in default hereunder or otherwise cannot accept delivery of Output (for any reason) shall not be used in calculating the Non-Delivery Period, and provided further, that System Owner's failure to deliver Output following the Non-Delivery Period shall not be an Event of Default for so long as System Owner, at its option, pays to Customer on a monthly basis in arrears the positive difference, if any, between the Solar Electricity Price Customer would have paid for Output during such period and the Utility Rate Customer pays to Utility in connection with obtaining electricity (the "Non-Delivery Payment"), until such time as System



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Owner restores deliveries of Output to Customer, which shall not be more than one hundred eighty (180) days following the Non-Delivery Period, unless failure to deliver is caused by System Owner's inability to obtain equipment, parts or other products from its suppliers, in which case such 180-day period shall be extended for an additional period of one hundred eighty (180) days following the Non-Delivery Period.

15.2. Misrepresentation. It is an Event of Default if any representation or warranty by System Owner under Section ____ hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Customer identifying the defect.

15.3. Abandonment During Installation. It is an Event of Default if after commencement of installation of the System, System Owner abandons installation of the System for thirty (30) days and fails to resume installation within thirty (30) days after receipt of notice from Customer stating that, in Customer's reasonable determination, Provider has abandoned installation of the Project.

15.4. Obligation Failure. It is an Event of Default if System Owner fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section ____ (relating to Force Majeure Events), and such failure is not cured within: (i) ten (10) days if the failure involves a failure to make payment when due or maintain required insurance; or (ii) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Customer identifying the failure.

15.5. Insolvency. It is an Event of Default if System Owner (i) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (ii) admits in writing its inability, or is generally unable, to pay its debts as such debts become due; (iii) makes a general assignment for the benefit of its creditors; (iv) commences a voluntary case under any bankruptcy law; (v) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (vi) acquiesces in, or fails to contest in a timely manner, any petition filed against System Owner in an involuntary case under bankruptcy law or seeking to dissolve Provider under other Applicable Law; or (vii) takes any action authorizing its dissolution.

15.6. Customer Failure to Pay. It is an Event of Default if Customer fails to pay an invoice on the Due Date, and such failure continues for a period of twenty (20) Business Days after the Due Date.

15.7. Obligation Failure. It is an Event of Default if Customer fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section ____ (relating to Force Majeure Events), and such failure is not cured within: (i) ten (10) days if the failure involves a failure to maintain required insurance; or (ii) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from System Owner identifying the failure.

15.8. Insolvency. It is an Event of Default if Customer (a) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (b) admits in writing its inability, or be generally unable, to pay its debts as such debts become due; (c) makes a general assignment for the benefit of its creditors; (d) commences a voluntary case under any bankruptcy law; (e) files a petition seeking to take advantage of



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any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (f) acquiesces in, or fails to contest in a timely manner, any petition filed against Customer in an involuntary case under bankruptcy law or seeking to dissolve Customer under other Applicable Law; or (g) takes any action authorizing its dissolution.

15.9. Site Abandonment. It is an Event of Default if Customer vacates or abandons the Site or the sale or lease of the Site other than in accordance with the assignment provisions of this Agreement.

15.10. Material Misrepresentations. Any representation or warranty by Customer under Section ___, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from System Owner identifying the defect.

15.11. Customer Remedies. Following any Event of Default by System Owner which is not cured by System Owner, System Owner's assignee, or a Financing Party, pursuant to the provisions of this Section, the Customer may exercise one or more of the following remedies:

15.11.1. Terminate this Agreement immediately;

15.11.2. Remove all of the tangible property comprising the System from the Site at System Owner's expense;

15.11.3. Cease making payments to System Owner hereunder other than accrued and unpaid amounts for the period prior to termination; and/or

15.11.4. Exercise any other remedy it may have at law or equity or under this Agreement.

15.12. System Owner Remedies. Following an Event of Default by Customer which is not cured by Customer or pursuant to the provisions of this Section, the System Owner may exercise one or more of the following remedies:

15.12.1. Terminate this Agreement immediately;

15.12.2. Suspend the provision of all services hereunder, including, without limitation, the O&M Services;

15.12.3. Remove all of the tangible property comprising the System from the Site at Customer's expense;

15.12.4. Sell electricity produced by the System to persons other than Customer, and recover from Customer any loss in revenues resulting from such sales;

15.12.5. Customer shall pay to System Owner an Early Termination Payment pursuant to Section ___ and Exhibit ___ with the purchase being deemed to occur as of the date of the Default Notice; and/or



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15.12.6. Exercise any other remedy it may have at law or equity or under this Agreement.

15.13. Lender Cure Rights Upon System Owner Default. Notwithstanding any contrary term of the Agreement upon the occurrence of an Event of Default as to System Owner:

15.13.1. The Lender, as collateral assignee, may exercise, in the place and stead of System Owner, any and all rights and remedies of System Owner under this Agreement in accordance with the terms of this Agreement. Lender may also exercise all rights and remedies of secured parties generally with respect to this Agreement and the System.

15.13.2. The Lender may pay all sums due under this Agreement and to perform any other act, duty or obligation required of System Owner thereunder or cause to be cured any default of System Owner thereunder in the time and manner provided by the terms of this Agreement. Lender may cure any default of System Owner under this Agreement or (unless the Lender has succeeded to System Owner's interests under this Agreement, in which case Lender shall assume all System Owner rights and obligations hereunder) may perform any act, duty or obligation of System Owner under this Agreement.

15.13.3. Upon Lender's exercise of remedies pursuant to any security interest in the System, including any sale of the System by the Lender, or any conveyance from System Owner to the Lender (or any Qualified Assignee of the Lender), in lieu of Lender's exercise of its remedies, the Lender must give notice to Customer of the transferee or assignee of this Agreement. Any such exercise of remedies (or conveyance) is not an Event of Default under this Agreement.

15.13.4. In the event of any rejection or other termination of this Agreement under the United States Bankruptcy Code, at the request of the Lender made within one hundred twenty (120) days of such termination or rejection, Customer shall enter into a new agreement with the Lender or its Qualified Assignee having substantially the same terms and conditions as this Agreement.

16. FORCE MAJEURE

16.1. Excuse for Force Majeure Event. Except as provided in Section ____ or otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief as a result of the Force Majeure Event shall promptly (a) notify the other Party in writing of the existence and details of the Force Majeure Event; (b) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (c) notify the other Party in writing of the cessation of such Force Majeure Event; and (d) resume performance of its obligations hereunder as soon as practicable thereafter.

16.2. No Excuse for Payment for Prior Services. Obligations to make payments for services already provided shall not be excused by a Force Majeure Event.

16.3. Restoration. In the event of a casualty event, to the extent that such casualty event is attributable to the occurrence of a Force Majeure Event, which destroys all or a substantial portion of the Premises, Customer shall elect, within ninety (90) days of such event, whether it will restore the Premises, which restoration will be at the sole expense of Customer. If Customer does not elect to restore the Premises, then System Owner shall not restore the System and this Agreement terminates. If



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Customer does elect to restore the Premises, Customer shall provide notice of such election to System Owner and System Owner shall then elect, within ninety (90) days of receipt of such notice, whether or not to restore the System, subject to the Parties agreeing on a schedule for the restoration of the Premises and an equitable extension to the Term of this Agreement. If the Parties are not able to so agree or if System Owner does not elect to restore the System, System Owner shall promptly remove any portions of the System remaining on the Premises, and this Agreement shall terminate. If System Owner does elect to restore the System, it shall do so at its sole expense. In the event of termination of this Agreement based upon a Force Majeure event, (a) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the casualty event; and (b) the confidentiality provisions of Section ____ the indemnity obligations under Section ____ hereof, and the dispute resolution provisions of Section ____ hereof shall continue to apply notwithstanding the termination of this Agreement.

17. TERMINATION

17.1. Termination for Default. Upon the occurrence and during the continuation of any Event of Default hereunder, the non-defaulting Party may terminate this Agreement.

17.2. Termination for Failure to Meet Condition Precedent. If, at any time, System Owner determines that any condition precedent provided for in Section ____ has not been met or is not capable of being met, System Owner may terminate this Agreement upon twenty (20) days' written notice of such termination to Customer.

17.3. Termination for Force Majeure Event. Notwithstanding anything to the contrary in this Section 16, if nonperformance on account of a Force Majeure Event continues beyond a continuous period of three hundred sixty-five (365) days, then either Party shall have the right to terminate this Agreement upon thirty (30) days notice to the other. Upon such termination, System Owner shall decommission and remove the System from the applicable Site in accordance with the provisions of Section ____ (unless there has been a casualty event, in which case the provisions of Section ____ above shall apply to the removal of the System). In the event of such a termination of this Agreement with respect to the System, the Parties shall not be released from any payment or other obligation arising under this Agreement which accrued prior to the shutdown of the System or the Premises, and the indemnity, confidentiality and dispute resolution provisions of this Agreement survive the termination of this Agreement.

18. INSURANCE

18.1. System Owner's Liability Insurance. System Owner shall maintain (or shall cause its independent contractors to maintain) without interruption during the Construction Period, general liability insurance, professional liability insurance and workers compensation insurance as required by <STATE OF PREMISES> law, in respect of the design, construction and installation of the System with a company or companies rated A- or above by A.M. Best, in an aggregate amount not less than two million dollars (\$2,000,000) comprehensive single limit or such statutorily required amounts.

18.2. Rating / Coverage. System Owner shall maintain (or shall cause its independent contractors to maintain) without interruption from the Service Commencement Date until expiration of the Term, with a company or companies rated A- or above by A.M. Best, insurance for personal injury



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and property damage occurring upon or about the Site, naming the Customer as additional insured as its interests may appear in the following amounts:

Commercial General Liability Limits:

2,000,000	General Aggregate
1,000,000	Products & Completed Operations Aggregate
1,000,000	Each Occurrence
1,000,000	Personal Injury (Advertising Injury Excluded)
50,000	Fire Damage, Any One Fire

Excess Liability Limits: 10,000,000 Aggregate

18.3. Customer's Insurance. Customer (or its affiliates) shall maintain without interruption from the Service Commencement Date until expiration of the Term, with a company or companies rated A- or above by A.M. Best, the following insurance: (i) general liability insurance in an amount not less than three million (\$3,000,000) dollars and (ii) property insurance in an amount not less than the replacement value of the Premises. Such insurance shall name System Owner and the Lenders as additional insureds as their interests may appear.

18.4. Evidence of Insurance. Each Party shall maintain the certificate(s) of insurance evidencing the insurance required in Section 18 and shall provide such certificates to the other Party upon request. Such certificate(s) shall contain a provision that coverage afforded under the policies shall not be canceled or allowed to expire until at least thirty (30) days' prior written notice has been given to the other Party.

19. ASSIGNMENT

19.1. Assignment by Customer. Customer shall not assign this Agreement without the consent of System Owner, and any assignment without such consent shall be ineffective.

19.2. Assignment by System Owner. System Owner may, without the consent of Customer, assign its interest in, and be released from its obligations under, this Agreement to an assignee, as long as the assignee shall expressly assume this Agreement, shall agree to be bound by the terms and conditions hereof. Further, System Owner may, without the consent of Customer, (a) transfer or assign all or substantially all of its rights and obligations hereunder to an affiliate substantially within and under the control of System Owner or to a successor or (b) collaterally assign to the Lenders all or any part of System Owner's rights or obligations hereunder. Customer agrees to provide acknowledgements, consents, or certifications reasonably requested by Lenders in conjunction with such financing, and agrees and acknowledges that the Lender shall have the right to enforce the provisions of Section ____ (reference 13.6 in original) as intended third-party beneficiaries.



20. INDEMNITY AND LIMITATION OF LIABILITY

20.1. Indemnity. Customer shall indemnify, defend and hold System Owner, its contractors, subcontractors, shareholders, directors, officers, employees, agents, and invitees, and Lender (System Owner's Indemnified Parties"), harmless from and against all Losses incurred by the Provider's Indemnified Parties to the extent arising from or out of (a) any claim for or injury to or death of any Person or loss or damage to property to the extent arising out of the negligence or willful misconduct of any of Customer's Indemnified Parties; (b) Customer's violation of Applicable Law; or (c) the presence, removal or remediation of any Hazardous Materials on the Site (other than any Hazardous Materials brought on to the Site by Provider's Indemnified Parties). Customer shall not be obligated to indemnify System Owner or any System Owner Indemnified Party for any Loss to the extent such Loss is due to the gross negligence or willful misconduct of System Owner or any System Owner Indemnified Party.

20.2. Defense of Claims. An Indemnifying Party shall have the right to defend an Indemnified Party by counsel (including insurance counsel) of the Indemnifying Party's selection reasonably satisfactory to the Indemnified Party, with respect to any claims within the indemnification obligations hereof. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. No Indemnified Party shall settle any such claims or actions without prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, and no Indemnifying Party shall settle any such claims without the Indemnified Party's prior consent unless the settlement includes a full and unconditional release of claims against the Indemnified Party.

20.3. Limitation of Liability. In no event is System Owner liable to Customer or others, for any lost revenue; lost profits; replacement goods; loss of technology, rights, or services; or incidental, punitive, indirect, or consequential damages arising from or related to this Agreement, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability, or otherwise. In no event does System Owner's liability under this Agreement exceed the Contract Price.

21. DISPUTES

21.1. Negotiation. Prior to a Party pursuing its rights under Section 21.2, such Party must attempt in good faith to resolve any such dispute amicably. If after thirty (30) days, or such other period related to a particular set of facts or circumstances as described elsewhere herein, the dispute has not been resolved, either Party may notify the other that it intends to pursue its rights under Section 21.2.

21.2. Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Arbitration Rules of the American Arbitration Association. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

21.3. Unpaid Balances. Notwithstanding the foregoing, in System Owner's sole discretion, collection of unpaid balances may be sought in any court having jurisdiction thereof.



«OPPORTUNITY_CUSTOMER_NAME»

21.4. Limitation. Except for claims under any warranty provided in this Agreement, no action of any character arising from or related to this Agreement, or the performance thereof, shall be commenced by either Party against the other more than one (1) year after the expiration of the Term

21.5. Jury Waiver. The Parties hereto expressly waive their rights to a jury trial with regard to any and all matters that may arise out of or related to this Agreement.

22. NOTICES

22.1. Delivery. Except when otherwise required by law, any notice ("Notice") which a Party is required or may desire to give the other shall be in writing and may be sent by (a) personal delivery, b) mail (either by (i) United States registered or certified mail, return receipt requested, postage prepaid, (ii) Federal Express or similar generally recognized overnight carrier regularly providing proof of delivery), (c) facsimile, or (d) email.

22.2. Addressee. Such Notice shall be addressed to the appropriate Party as follows (subject to the right of a Party to designate a different address for itself by notice similarly given at least fifteen (15) days in advance):

To System Owner:

Mercury Commercial Energy Corp.
36 Midland Avenue
Port Chester, NY 10573
Phone: (914) 637-9700
Facsimile: (914) 637-9713
Email: notices@mercurysolarsystems.com

To Customer:

«OPPORTUNITY_CUSTOMER_NAME»
«OPPORTUNITY_STREET_ADDRESS»
«OPPORTUNITY_CITY», «OPPORTUNITY_STATE»
«OPPORTUNITY_ZIP_CODE»

23. CONFIDENTIALITY

23.1. Restrictions on Use. If either Party provides Confidential Information to the other Party, or if in the course of performing under this Agreement a Party comes into possession of Confidential Information of the other Party, the Receiving Party shall use the Disclosing Party's Confidential Information only (a) for the purpose of performing under this Agreement, and (b) for such other purposes, if any, as the Disclosing Party may expressly authorize in writing. In no event shall the Receiving Party use or exploit any such Confidential Information for its own benefit or the benefit of another without the written authorization of the Disclosing Party. The Receiving Party shall not copy any such confidential Information except as necessary for a permitted use, and shall ensure that all such copies are marked in writing as proprietary or confidential information of the Disclosing Party.



23.2. Restrictions on Disclosure. The Receiving Party shall not disclose any of the Disclosing Party's Confidential Information to any agent, contractor, or other person not employed by the Receiving Party, except (a) its directors, accountants, and attorneys, (b) System Owner's financing sources and potential financing sources, and (c) such other persons, if any, as to whom the Disclosing Party consents in writing (each person described in clause (a), (b), or (c) being referred to herein as a "Permitted Third Party"). The Receiving Party shall disclose the Disclosing Party's Confidential Information only to its employees and Permitted Third Parties who, in each case, need such Confidential Information to carry out a permitted use on behalf of the Receiving Party and who agree or who are under a duty to protect and observe the confidentiality and limitations on use of such Confidential Information. The Receiving Party shall take all measures reasonably necessary to protect the confidentiality of Confidential Information, including, without limitation, taking such precautions as the Receiving Party takes to protect the Receiving Party's own confidential and proprietary information. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information of the Disclosing Party as required by law or regulation (including any information required to be disclosed under rules, regulations, and contracts implementing the Applicable Solar Program or Tax Attributes related to this Agreement), provided that, to the extent feasible, the Receiving Party gives the Disclosing Party prior written notice of such disclosure and cooperates reasonably, at Disclosing Party's sole expense, to obtain confidential treatment if available.

23.3. Permitted Disclosures. The obligations of confidentiality and restrictions on use set forth in Section 23 hereof shall not apply to any Confidential Information that the Receiving Party can demonstrate: (a) was generally available to the public at the time of disclosure to the Receiving Party or subsequently became generally available to the public through no act or omission attributable to the Receiving Party; (b) was rightfully in the possession of the Receiving Party, without an obligation of confidentiality to the Disclosing Party, prior to disclosure by the Disclosing Party or prior to the date of this Agreement; (c) is hereafter received by the Receiving Party from a third party other than the Disclosing Party, which is not and was not bound by a confidentiality agreement with the Disclosing Party or which otherwise did not have a duty of confidentiality to the Disclosing Party covering such information of which the Receiving Party has actual knowledge; or (d) such Confidential Information is independently developed by Receiving Party or its representatives entirely without reference to the Confidential Information.

23.4. Return of Materials. Upon the request of the Disclosing Party, the Receiving Party shall, at its option, deliver to the Disclosing Party or destroy all documents, disks, copies and other materials representing or containing the Disclosing Party's Confidential Information (or any part thereof), including erasing or destroying all such information stored or running in computer memory or in any other data storage device, except for a single copy of the Disclosing Party's Confidential Information which may be retained solely for archival purposes. For public entities, they shall comply with the Open Public Records Act and/or Government Records Council in regards to records retention.

23.5. Enforcement of Confidentiality Obligation. Each Party agrees that the provisions of this Section 11 are necessary for the protection of the business and goodwill of the Parties and are considered by the Parties to be reasonable for that purpose. The Receiving Party agrees that any breach of this Section 11 will cause the Disclosing Party substantial and irreparable damages and, therefore, in the event of any such breach, in addition to other remedies which may be available, the Disclosing Party shall have the right to specific performance and other injunctive (temporary or permanent) and equitable relief. The



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provisions of this Section 11 shall survive until three (3) years after the effective date of any termination of this Agreement.

23.6. Survival. The obligations set forth in this Section 23 shall survive expiration or termination of this Agreement for a period of three (3) years or as required by New York law.

24. MISCELLANEOUS

24.1. Applicable Law. This Agreement shall be construed in accordance with and governed for all purposes by the internal laws of the State of New York.

24.2. Amendments and Modifications. Modifications to this Agreement can be made only in writing and signed by any authorized representative of System Owner (i.e., a Vice President or more senior officer).

24.3. Limited Effect of Waiver. Any waiver of any of the terms hereof shall be enforceable only to the extent it is waived in a writing signed by the Party against whom the waiver is sought to be enforced. Any waiver shall be effective only for the particular event for which it is issued and shall not constitute a waiver of a subsequent occurrence of the waived event nor constitute a waiver of any other provision hereof, at the same time or subsequently. The failure of either System Owner or Customer to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance or of any other provision in any instance.

24.4. Complete Agreement. These Terms and Conditions, together with the Agreement to which it is attached, all other Exhibits thereto, and any other documents referred to therein and/or attached thereto, constitute the entire agreement of the Parties.

24.5. Invalidity and Survival. If any provision of this Agreement is held by an arbitrator or court of competent jurisdiction to be invalid, void, or unenforceable, it shall nevertheless be enforced to the fullest extent allowed by law in that and other contexts. In such event, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

24.6. Counterpart Execution. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. Facsimile transmission or scan delivered by electronic mail (receipt acknowledged) of executed copies or electronic signature for this Agreement shall be legal, valid, and binding execution and delivery for all purposes

24.7. Neutral Interpretation. The Parties acknowledge that this is a negotiated Agreement and, in the event of any dispute over its meaning or application, this Agreement shall be interpreted fairly and reasonably and neither more strongly for, nor more strongly against, either Party. Any headings or captions contained in this Agreement are for reference purposes only and are in no way to be construed to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

24.8. Marketing. The Parties agree and acknowledge that each Party may promote the installation and use of the System by any means; provided that neither Party shall identify the other by name (or in the case of the Customer, by location) without the consent of the other Party and the approval



«OPPORTUNITY_CUSTOMER_NAME»

by such other Party of all written materials identifying such other Party to the extent such materials identify, describe, or otherwise reference such Party.

24.9. Intellectual Property. Absent written consent from System Owner, any use of System Owner's or EPC Contractor's name, logo or associated imagery (collectively, "System Owner IP") is strictly prohibited. Any inclusion of System Owner IP in any materials of Customer or on or relating to the Property must be approved in advance in writing by System Owner. If Customer wishes to issue a press release that refers to System Owner or EPC Contractor by name, it must obtain prior approval in writing from System Owner.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above.

MERCURY COMMERCIAL FINANCE

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



EXHIBITS

Exhibit A:	System Technical Specifications
Exhibit B:	Estimated Construction Schedule
Exhibit C:	Solar Electricity Price
Exhibit D:	System generating capacity/estimated output
Exhibit E:	Payment
Exhibit F:	Form of Easement
Exhibit G:	Acknowledgment and Confirmation; Other Lender Documents
Exhibit H:	Approval, permits, authorization, etc. Checklist
Exhibit I:	All necessary permits, licenses, easements, approvals from Customer
Exhibit J:	Early Termination Payments

MEMORANDUM OF UNDERSTANDING
NEW MILFORD POLICE DEPARTMENT
AND THE
NEW MILFORD SCHOOL DISTRICT COPS

THIS MEMORANDUM OF UNDERSTANDING ("MOU") shall commence on the date signed by and between the New Milford Police Department (hereinafter referred to as "NMPD") and the New Milford Public School District (hereinafter referred to as "NMPS") for the grant period of 6/1/2013 – 8/31/2017.

WHEREAS, NMPS and the NMPD desire to set forth in this MOU the specific agreements and responsibilities pertaining to the COPS Secure Our School Grant.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. NMPD responsibilities:

- Administration of the grant award.
- Allocation of any salary or benefits connected to the staffing as outlined the grant award.
- Timely reporting to the Department of Justice.
- Completion and submission of requests for funds from the Department of Justice.
- NMPS shall not be liable for any payment whatsoever to any contractors or staffing connected to the administration of the award.
- Any hardware provided to the NMPD for the purposes of this project and kept at NMPD locations shall become the property of the NMPD. After all warranties have expired, NMPD shall assume responsibility for maintenance, repair and replacement of any equipment provided to the NMPD pursuant to the COPS grant.

2. NMPS responsibilities:

- Provide to NMPD, and any Federal or State department having monitoring or reviewing authority, to authorized representatives and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine and audit all records and documents necessary to determine compliance with relevant Federal, State and local statutes, rules and regulations and this MOU, and to evaluate the quality, appropriateness and timeliness of services performed, for a period of at least three (3) years from the termination date of this MOU, or until audit findings are resolved, whichever is greater.
- Assure that any SRO assigned to a school have access to the building and are included in the school culture and program development.
- NMPS shall have sole responsibility for any video storage and retention.

5. Termination of the Agreement:

Subject to compliance with the terms and conditions of this MOU, this MOU shall terminate at the expiration of the grant period on August 31, 2017.

6. Compliance with Applicable Laws:

All services to be performed by NMPD and NMPS pursuant to this MOU shall be performed in accordance with all applicable Federal, State, County and municipal laws, ordinances and regulations.

7. Alteration:

This MOU is entire and contains all of the terms and conditions agreed upon by the parties. No alteration or variation shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement shall be binding on the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed on the date first above written.

New Milford Police Department

BY: _____
NMPD

ATTEST:
To be determined NMPD CLERK

BY: _____
Assistant/Deputy NMPD Clerk

New Milford Public Schools

By: _____
Superintendent of Schools



Office of the
Assistant Superintendent

MEMORANDUM

TO: Dr. JeanAnn Paddyfote, Superintendent
FROM: Joshua Smith, Assistant Superintendent
DATE: May 10, 2013
SUBJECT: Textbook Previews – Grade 9, 10, 12

The textbooks listed below will be brought before the Board of Education for adoption at the June meeting. Board members may review these books, which will be located in the Assistant Superintendent's office, between the hours of 8:00 a.m. and 4:00 p.m.

Ways of the World by Robert Strayer (Beford/St. Martins) – Grades 9-10
This textbook parallels the layout of the AP World History course in terms of historical period and theme. The text contains primary sources and cross cultural analysis, a key component of the course.

Government by the People by Magleby/Light/Nemachek (Pearson) – Grade 12
This textbook is for a new course being offered at the high school starting in 2013-2014. The book thoroughly treats the principles, processes, institutions, and policies of United States Government.

Comparative Politics Today by Powell/Dalton/Strom (Pearson) – Grade 12
This textbook is also for a new course being offered at the high school starting in 2013-2014. The book offers a theoretical framework for exploring comparative politics and for illustrating how to compare the world's political systems.

APPROVED FIELD TRIPS

May 2013

<u>School</u>	<u>Grade/Dept.</u>	<u>Trip Date</u>	<u>Day(s) of the Week</u>	<u># of Students</u>	<u># of Adults</u>	<u>Destination</u>	<u>Subs</u>	<u>Student Cost</u>
SNIS	Music/6	4/11/13	Thursday	50	2	Schaghticoke Middle School - New Milford, CT	Yes-1	\$0
SMS/SNIS	Music/4-8	4/25/13	Thursday	40	2	New Milford High School - New Milford, CT	No	\$0
NMHS	Guidance/12	5/3/13	Friday	7	1	The Matrix - Danbury, CT	No	0
NES	2	5/7/13	Tuesday	116	36	New Milford Town Green - New Milford, CT	No	\$2
NMHS	World Language	5/8/13	Wednesday	50	2	Mystic Seaport Museum - Mystic, CT	Yes-2	\$45
NMHS	Business/11-12	5/8/13	Wednesday	40	4	New York City Financial District - New York, NY	Yes-2	\$35
NMHS	Health	5/13/13	Monday	20	1	Naugatuck Valley Community College - Waterbury, CT	Yes-1	\$0
JPS	3	5/13/13	Monday	103	14	Sarah Noble Intermediate School - New Milford, CT	No	\$0
NMHS	Health	5/14/13	Tuesday	7	1	Bethel Firehouse - Bethel, CT	Yes-1	\$0
NMHS	Adult Ed	5/14/13	Tuesday	11	11	Charter Communications - Newtown, CT	No	\$0
NMHS	World Language	5/16/13	Thursday	30	2	Tenement Museum & Metropolitan Museum of Art - New York, NY	Yes-2	\$100
HPS	3	5/16/13	Thursday	105	7	Sarah Noble Intermediate School - New Milford, CT	No	\$0
NES	3	5/17/13	Friday	126	13	Sarah Noble Intermediate School - New Milford, CT	No	\$0
LHTC		5/19/13	Sunday	11	3	Yankee Stadium - Bronx, NY	No	\$21.50
NMHS	Guidance/10&12	5/21/13	Tuesday	8	1	The Maxx - New Milford, CT	No	\$0
SMS	8	5/23/13	Thursday	320	20	Lake Compounce - Bristol, CT	No	\$43.56
SNIS	5	5/23/13	Thursday	178	36	Pratt Nature Center - New Milford, CT	No	\$0
JPS	2	5/24/13	Friday	105	14	New Milford Green - New Milford, CT	No	\$2
SNIS	5	5/24/13	Friday	184	36	Pratt Nature Center - New Milford, CT	No	\$0
NMHS	Social Studies/10-12	5/28/13	Tuesday	21	2	Brighton Beach - Brooklyn, NY	Yes-1	\$45
NES	3	5/29/13	Wednesday	126	37	Connecticut Science Center - Hartford, CT	No	\$0
NMHS	10-12	5/29/13	Wednesday	40	1	Schaghticoke Middle School - New Milford, CT	Yes-1	\$0
NMHS	Business	5/29/13	Wednesday	27	1	Bantam Superior Court - Bantam, CT	Yes-1	\$0
NES	1	6/6/13	Thursday	116	21	Pratt Nature Center - New Milford, CT	No	\$14.10
NES	3	6/10/13	Monday	14	3	Sarah Noble Intermediate School - New Milford, CT	No	\$0

**New Milford Board of Education
Facilities Sub-Committee Minutes
May 7, 2013
Lillis Administration Building, Room 2**

Present: Mr. Daniel W Nichols, Chairperson
Mr. Thomas McSherry
Mrs. Lynette Celli Rigdon
Mr. William Wellman

Also Present: Dr. JeanAnn C. Paddyfote, Superintendent of Schools
Mr. Joshua Smith, Assistant Superintendent
Mr. Gregg Miller, Director of Fiscal Services
Mr. John Calhoun, Facilities Manager
Ms. Ellamae Baldelli, Director of Human Resources

CLAUSS C. ELLICKBEE
TOWN CLERK

2013 MAY -9 P 1:44

NEW MILFORD, CT

1.	Call to Order The meeting of the New Milford Board of Education Facilities Sub-Committee was called to order at 6:45 p.m. by Mr. Nichols.	Call to Order
2.	Public Comment <ul style="list-style-type: none"> None 	Public Comment
3.	Discussion and Possible Action A. Mercury Solar Update <ul style="list-style-type: none"> Mr. Calhoun said that since Hill and Plain Elementary School and New Milford High School were the only two schools awarded for this project, the financing piece may change from the original presentation for six schools. There is also an agreement that must be signed which Board counsel has reviewed. Mr. Miller said that Counsel states that the agreement must be vetted through the town as technically the Board is only custodian to the buildings and the project would result in major additions to the two buildings. Mr. Nichols asked about the timeframe and Mr. Calhoun said it would be 30 days from when the award letter is actually in hand. He said this may be an issue as the Town Council has only one meeting in May which is this Monday. They do not meet for another month after that. 	Discussion and Possible Action Mercury Solar Update

	<ul style="list-style-type: none"> • Mr. McSherry asked what happened if we did not meet the 30 day deadline. Mr. Calhoun said that would likely mean that we would move to the bottom of the list again. He said other municipalities may have the same issue though. • Mr. Miller suggested we go through the process with Town Council ideologically at the least to see if they would approve the concept. That way, if we don't make the deadline this time, we will know where we stand for future grants. • Mr. Wellman asked for a copy of the agreement. Mr. Miller said he has a draft that he could provide. Dr. Paddyfote said that if the Committee moved to go forward with this project, she would provide the draft to the entire Board. <p>Mr. McSherry moved to bring the Mercury Solar agreement to the full Board for approval.</p> <p>Motion seconded by Mrs. Celli Rigdon.</p> <p>Motion passed unanimously.</p>	
B.	Capital Projects Update	
	<ul style="list-style-type: none"> • Mr. Calhoun said many of the capital projects were already completed. There were still funds left that will be used for replacement of classroom blinds and shades. Lighting retrofits at HPS are ongoing, as is the change to digital controls at JPS and SMS. The locker project at SMS is complete, as is the master clock system at SMS, lighting upgrades at SNIS, and access system upgrade at NMHS. The Lillis Building had additional cameras and new blinds installed. Repairs are being made to concrete walkways at the high school. District wide, equipment was purchased for use by the Maintenance department. The new time management system Veritime, which was presented last month, has been ordered. 	<p>Motion made and passed unanimously to bring the Mercury Solar agreement to the full Board for approval.</p> <p>Capital Projects Update</p>

	<p>C. SNIS Emergency Shelter Shower Project</p> <ul style="list-style-type: none"> Mr. Calhoun said he met with Health Director Mike Crespan to discuss funding and to look at two areas at SNIS near main restrooms, one near the cafeteria and one near the gym, for use as emergency shelter showers. A contractor is working on a quote for the work that would be required. If funded, work could take place this summer. <p>D. Use of Schools as Polling Locations</p> <ul style="list-style-type: none"> Dr. Paddyfote said with the referendum coming up and the current security climate in our schools, she and Mr. Calhoun met with Deputy Chief Buckley to develop a plan for that day. Dr. Paddyfote said she is very pleased that the town is working with us to have a police presence at all school polling places. Five of the six schools are used as polling places, four of those have latchkey programs before school starting at 6:00 a.m. and after school until 6:30 p.m. The NMPD will have two officers at each latchkey school. At HPS, the voting location was changed to the gym for isolation purposes. NES could not use the gym due to distance from parking and the incline for walking. An officer will be on duty in the cafeteria during voting and a table barrier will be set up to isolate the students from voters. There will be another officer in the front of the building. At JPS, voters must walk into the building to get to the gym. There will be an officer at the corridor intersection within the school as well as staff on duty to assist. Another officer will be stationed outside the building. SNIS will have an officer in back near the gym with parking. SMS is not a problem since the multipurpose room where voting takes place has a separate exterior entrance. Dr. Paddyfote said she was contacted by a few parents who recommended the schools not be used as polling places while school is in session. She referred them to the registrar. 	<p>SNIS Emergency Shelter Shower Project</p> <p>Use of Schools as Polling Locations</p>
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4.	Item of Information A. Appointment of Assistant Facilities Manager <ul style="list-style-type: none">Dr. Paddyfote introduced Mr. Joseph Olenik who is on the Operations agenda to be hired as the new Assistant Facilities Manager. She said Mr. Olenik has a long list of very good experiences on his resume and she expects him to be a tremendous help to Mr. Calhoun and the Facilities department.	Appointment of Assistant Facilities Manager
5.	Adjourn Mr. McSherry moved to adjourn the meeting at 7:05 p.m. seconded by Mrs. Celli Rigdon and passed unanimously.	Adjourn Motion made and passed unanimously to adjourn the meeting 7:05 p.m.

Respectfully submitted:



Daniel W Nichols, Chairperson
Facilities Sub-Committee

**New Milford Board of Education
Operations Sub-Committee Minutes
May 7, 2013
Lillis Administration Building, Room 2**

Present: Mr. Thomas McSherry, Chairperson
Mr. David A. Lawson
Mrs. Lynette Celli Rigdon
Mr. William Wellman

Also Present: Dr. JeanAnn C. Paddyfote, Superintendent of Schools
Mr. Joshua Smith, Assistant Superintendent
Mrs. Ellamae Baldelli, Director of Human Resources
Mr. Gregg Miller, Director of Fiscal Services
Mrs. Laura Olson, Director of Pupil Personnel & Special Services
Mr. Daniel DiVito, Director of Technology
Mr. John Calhoun, Facilities Manager
Mrs. Sandra Sullivan, Director of Food and Nutrition Services

CLERK
JULIE D. BLONDEE
JUN 14 2013

2013 MAY -9 P 1:44

NEW MILFORD, CT

1.	Call to Order The meeting of the New Milford Board of Education Operations Sub-Committee was called to order at 7:30 p.m. by Mr. McSherry.	Call to Order
2.	Public Comment <ul style="list-style-type: none"> None 	Public Comment
3.	Discussion and Possible Action <p>A. Exhibit A: Personnel — Certified, Non-Certified Appointments, Resignations and Leaves of Absence</p> <ul style="list-style-type: none"> Mr. McSherry welcomed Mr. Joseph Olenik, the new Assistant Facilities Manager. Mrs. Celli Rigdon expressed concern about the coach resignation saying this was one of several coaches recently to resign for personal reasons. Ms. Baldelli said “personal reasons” was the general reason listed by Human Resources on the form, but in three recent cases the more specific reason was conflict with another full-time job. She said an exit interview is always offered to hear any concerns. <p>Mr. Lawson moved to bring Exhibit A: Personnel - Certified, Non-Certified Appointments, Resignations and Leaves of Absence to the full Board for approval.</p>	Discussion and Possible Action <p>Exhibit A: Personnel — Certified, Non-Certified Appointments, Resignations and Leaves of Absence</p> <p>Motion made and passed unanimously to bring Exhibit A: Personnel - Certified, Non-Certified Appointments, Resignations and Leaves of Absence to the full Board for approval.</p>

	<p>Motion seconded by Mrs. Celli Rigdon.</p> <p>Motion passed unanimously.</p>	
B.	<p>Monthly Reports</p> <ol style="list-style-type: none"> 1. Purchase Resolution D-655 2. Budget Position as of April 30, 2013 3. Request for Budget Transfers <ul style="list-style-type: none"> • Mr. Miller gave a brief update. He said the accounts he has been monitoring have not changed much. Utilities are still very favorable. The town locked in #2 fuel oil for next year at two cents more approximately than where we are now. He had budgeted higher for next year so will be able to make a favorable adjustment there. • Mrs. Celli Rigdon asked about purchase resolution 51284 for landscaping of fields and inquired why that was not done in house. Mr. Calhoun said there are certain functions such as rebuilding pitcher's mounds that are specialties that his department does not do. He also said this covered application of pesticides which requires a special license. • Mr. Wellman asked for detail about purchase resolution 51138 for professional services. Dr. Paddyfote said it was for legal services for a residency hearing and a bus stop issue. • Mrs. Celli Rigdon asked about three items in the 900 series. Mr. Miller said the vendor rebate was a small amount from the Energy Education program. The transfer in was for a reimbursement to the custodial overtime account that was paid by vendors using our facilities. The unliquidated item was the sum of purchase order balances left over from a previous year that are closed out in the new year as part of the audit year end process. <p>Mrs. Celli Rigdon moved to bring the monthly reports: Purchase Resolution D-655, Budget Position as of April 30, 2013 and Request for Budget Transfers to the</p>	<p>Monthly Reports</p> <ol style="list-style-type: none"> 1. Purchase Resolution D-655 2. Budget Position as of April 30, 2013 3. Request for Budget Transfers <p>Motion made and passed unanimously to bring the monthly reports: Purchase Resolution</p>

	<p>full Board for approval.</p> <p>Motion seconded by Mr. Lawson.</p> <p>Motion passed unanimously.</p>	<p>D-655, Budget Position as of April 30, 2013 and Request for Budget Transfers to the full Board for approval.</p>
C. Gifts & Donations	<p>1. PTO – Exhibit B</p> <ul style="list-style-type: none"> • Mr. McSherry thanked the PTO for their very generous contributions. <p>Mr. Lawson moved to bring Gifts & Donations: PTO – Exhibit B to the full Board for approval.</p> <p>Motion seconded by Mrs. Celli Rigdon.</p> <p>Motion passed unanimously.</p>	<p>Gifts & Donations</p> <p>1. PTO – Exhibit B</p> <p>Motion made and passed unanimously to bring Gifts & Donations: PTO – Exhibit B to the full Board for approval.</p>
D. Grant	<p>1. IDEA Grant</p> <ul style="list-style-type: none"> • Mrs. Olson said the major expenditure for the grant is staffing with the remainder allotted to professional development and technology. • Mr. Wellman asked how the grant compared with what was anticipated. Mrs. Olson said these are the totals the state provided but they may change slightly going forward. Mr. Miller said the last few years have seen a favorable adjustment in June. Mrs. Olson said she has been told that the sequester may result in a 4-8% cut this year. Firm totals should be received by July 1st. <p>Mr. Lawson moved to bring the IDEA Grant to the full Board for approval.</p> <p>Motion seconded by Mrs. Celli Rigdon.</p> <p>Motion passed unanimously.</p>	<p>Grant</p> <p>1. IDEA Grant</p> <p>Motion made and passed unanimously to bring the IDEA Grant to the full Board for approval.</p>
E. Food & Nutrition Services		Food & Nutrition Services

	<p>1. Healthy Food Certification Statement</p> <ul style="list-style-type: none"> Mrs. Sullivan said this is the sixth year the district has participated in this program. <p>Mrs. Celli Rigdon moved to bring the Healthy Food Certification Statement to the full Board for approval.</p> <p>Motion seconded by Mr. Lawson.</p> <p>Motion passed unanimously.</p>	<p>1. Healthy Food Certification Statement</p> <p>Motion made and passed unanimously to bring the Healthy Food Certification Statement to the full Board for approval.</p>
4.	<p>Items of Information and Discussion</p> <p>A. Food and Nutrition Services Equipment Replacement Schedule</p> <ul style="list-style-type: none"> Mr. Miller said this schedule provides a listing of all the major food services equipment in use in the schools and their approximate age. There is no set schedule for replacement. Typically, an item is replaced only when it is broken beyond repair or repair costs outweigh purchase of new. Food Services has a healthy revenue stream presently and purchases its own capital from its self-sustaining budget. Mr. Miller is concerned that this may change in the future as declining enrollment adversely affects the revenue stream. <p>B. Community Oriented Policing Services (COPS) Grant</p> <ul style="list-style-type: none"> Mr. Smith said this grant was applied for before in 2010. Lieutenant Scribner is preparing the application for the grant this time with any award given to the town. If received, the grant will fund up to two SROs at 75% salary for three years, with the town paying 100% of a mandatory fourth year. The SROs would be assigned to the schools during the school year but would be available to the town as full time employees for times when school is not in session. The Board of Education's only 	<p>Food and Nutrition Services Equipment Replacement Schedule</p> <p>Community Oriented Policing Services (COPS) Grant</p>

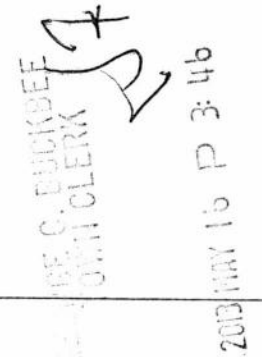
	<p>obligation is to authorize a Memo of Understanding with the Police department as partners. He was hoping to receive this memo within a few days.</p> <ul style="list-style-type: none"> • Mr. McSherry asked if the budgeting is all on the town side and Mr. Smith said yes that the 25% in the first three years, then 100% in year four, would come from the Police budget. • Mr. Lawson asked if this was a competitive grant and Mr. Smith said it was, with a 50/50 split of urban and suburban awards. • Mrs. Celli Rigdon expressed concern that the town would look for ways to have the Board of Education help with funding in year four. • Mr. Wellman asked for clarification as to what collaboration would be involved. Mr. Smith said the Board would be agreeing to incorporate the SROs into the culture of the schools, something that is already done here in New Milford. This is not necessarily true of other towns in the nation who may be applying. • Mrs. Celli Rigdon asked if these two SROs were in next year's budget. Mr. Smith said if the grant is successful, these two officers would be in addition to those already budgeted by the town. <p>Mr. Lawson moved to bring the COPS Memo of Understanding to the full Board for approval.</p> <p>Motion seconded by Mrs. Celli Rigdon.</p> <p>Motion passed unanimously.</p>	
C.	<p>Update on New Milford's Pension Plan</p> <ul style="list-style-type: none"> • Mr. Miller said he had asked that a representative from the town come to address this topic but scheduling conflicts prevented it. He said there was a teleconference last week with representatives from his office, the town and the new actuary regarding internal paper flow. He said the town holds the pension; BOE 	<p>Motion made and passed unanimously to bring the COPS Memo of Understanding to the full Board for approval.</p> <p>Update on New Milford's Pension Plan</p>

	<p>information goes through the town to the actuary for validation.</p> <ul style="list-style-type: none">• Mr. McSherry asked for confirmation that for the bargaining units we have in the plan the pension is administered by the town according to contribution rates set by contract and Mr. Miller said that was correct.• Mr. Wellman asked if there was any potential impact on the Board's ability to adopt early retirement plans in the future and Mr. Miller said not to his knowledge.• Mr. Miller said there are financial pressures on the town due to retirements already in place and he can envision the town looking at alternatives at some point but that there have been no formal discussions on this.• Mr. Lawson asked what bargaining units are in the plan. Ms. Baldelli said these units are paraeducators, secretaries, food service, custodians and maintenance, nurses and non-bargaining personnel. Teachers and administrators are not. She stated that all contracts spell out that the BOE has no authority to negotiate pension. Any changes must be negotiated with the town. The town can look at multipliers with its internal groups and has over time as their multipliers have changed while ours have not. In addition, town employees can add to pension, ours cannot.• Dr. Paddyfote stated that the Mayor reduced the BOE pension contribution by \$30,000 this year. Mr. Miller said that would have to be replaced down the road so it was just postponing a financial liability.	
5.	<p>Adjourn</p> <p>Mr. Lawson moved to adjourn the meeting at 8:12 p.m. seconded by Mrs. Celli Rigdon and passed unanimously.</p>	<p>Adjourn</p> <p>Motion made and passed unanimously to adjourn the meeting at 8:12 p.m.</p>

Respectfully submitted:


Thomas McSherry, Chairperson
Operations Sub-Committee

**New Milford Board of Education
Regular Meeting Minutes
May 14, 2013
Sarah Noble Intermediate School Library Media Center**

Present:	Mrs. Wendy Faulenbach, Chairperson Mr. David A. Lawson Mr. Thomas McSherry Mr. Daniel W Nichols Mrs. Lynette Celli Rigdon Mr. David R. Shaffer Mrs. Daniele Shook Mr. William Wellman	 <p>JOHN C. BUCKBEE TOWN CLERK 2013 MAY 16 P 3:46</p>
Absent:		

NEW MILFORD, CT

Also Present:	Dr. JeanAnn Paddyfote, Superintendent of Schools Mr. Joshua Smith, Assistant Superintendent of Schools Ms. Ellamae Baldelli, Director of Human Resources Mrs. Laura Olson, Director of Pupil Personnel and Special Services Mr. Gregg Miller, Director of Fiscal Services Mr. John Calhoun, Facilities Manager Mrs. Sandra Sullivan, Director of Food and Nutrition Services
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1.	Call to Order A. Pledge of Allegiance The meeting of the New Milford Board of Education was called to order at 7:30 p.m. The Pledge of Allegiance immediately followed the call to order.	Call to Order A. Pledge of Allegiance
2.	Recognition A. CMEA Northern Region Music Festival: NMHS students Serina Ahmed, Thomas Barkal, Benjamin Bayers, Ashley Billings, Kayla Blackburn, Jessica Bowe, Charles Brookshire, Kristina Chamberlin, James Curley, Anthony D'Andrea, Lawrence Davis, Nathaniel Diamond, Daniel Fay, Killian Greene, Marika Gutzman, Brandon Halberg, Abigail Heydenburg, Karl Hinger, Ryan Kauer, Alyssa Luis, Francine Luo, Howard (Bihao) Luo, Jaclyn Mercer, Timothy Mondoneto, Rebecca Myhill, Justin Nabozny, Nicholas Noga, Sylvia Onorato, Lindsey Partelow, Allegra Peery, Nicholas Pitcher, Krista Pullen, Christian Scillitoe, Emily Sterk, Tyler Swanson,	Recognition A. CMEA Northern Region Music Festival: NMHS students Serina Ahmed, Thomas Barkal, Benjamin Bayers, Ashley Billings, Kayla Blackburn, Jessica Bowe, Charles Brookshire, Kristina Chamberlin, James Curley, Anthony D'Andrea, Lawrence Davis, Nathaniel Diamond, Daniel Fay, Killian Greene, Marika Gutzman, Brandon Halberg, Abigail Heydenburg, Karl Hinger, Ryan Kauer,

	<p>Emilyn Tuomala, John Vazquez, and Brianna Walker</p> <ul style="list-style-type: none"> Dr. Paddyfote introduced Mr. Keck, Mr. Syzdek, and Dr. Longo to present awards to students who were selected to the CMEA Northern Region Band, Jazz Band, Orchestra, Chorus, Flute Choir or Youth Honor Band; to the CMEA All State Band, Chorus or Orchestra; and to the NA/ME All Eastern Band. <p>B. USDA Foods School Breakfast Innovation Award Runner Up: Mrs. Sandra Sullivan for New Milford Public Schools Food and Nutrition Services</p> <ul style="list-style-type: none"> Dr. Paddyfote introduced Mrs. Sandra Sullivan, Director of Food and Nutrition Services, for recognition. <p>The meeting recessed at 7:48 p.m. for a brief reception and reconvened at 8:02 p.m.</p>	<p>Alyssa Luis, Francine Luo, Howard (Bihao) Luo, Jaclyn Mercer, Timothy Mondoneto, Rebecca Myhill, Justin Nabozny, Nicholas Noga, Sylvia Onorato, Lindsey Partelow, Allegra Peery, Nicholas Pitcher, Krista Pullen, Christian Scillitoe, Emily Sterk, Tyler Swanson, Emilyn Tuomala, John Vazquez, and Brianna Walker</p> <p>B. USDA Foods School Breakfast Innovation Award Runner Up: Mrs. Sandra Sullivan for New Milford Public Schools Food and Nutrition Services</p>
3.	<p>Public Comment</p> <ul style="list-style-type: none"> There was none. 	<p>Public Comment</p>
4.	<p>PTO Report</p> <ul style="list-style-type: none"> There was none. 	<p>PTO Report</p>
5.	<p>Student Representatives Report</p> <ul style="list-style-type: none"> There was none. 	<p>Student Representatives Report</p>
6.	<p>Approval of Minutes</p> <p>A. Approval of the following Board of Education Meeting Minutes</p> <p>1. Regular Meeting Minutes April 9, 2013</p> <p>Mr. Nichols moved to approve the regular meeting minutes of April 9, 2013, seconded by Mr. McSherry and passed unanimously.</p>	<p>Approval of Minutes</p> <p>A. Approval of the following Board of Education Meeting Minutes</p> <p>1. Regular Meeting Minutes April 9, 2013</p> <p>Motion made and passed unanimously to approve the regular meeting minutes of April 9, 2013.</p>

7.	<p>Superintendent's Report</p> <ul style="list-style-type: none"> • Dr. Paddyfote noted that on May 7th twelve exchange students and two teachers from Germany arrived in New Milford. In April, twelve New Milford High School students and two teachers had gone to Germany. The group spends ten days going to class with NMHS students. • Mrs. Celli Rigdon and Dr. Paddyfote attended the Magnet School meeting. Forty families applied to the Magnet School lottery. Twenty three students were in the lottery for the two openings in kindergarten. • Dr. Paddyfote attended the Grad Party luncheon on May 10th. She said funding for the Grad Party is down from previous years and she encouraged all to help if possible. • The student awards ceremony for the Western Connecticut Superintendents Association was held Monday, May 13th and two students from Schaghticoke Middle School and two from New Milford High School were honored. • The Earthdome is at Hill & Plain School. The Earthdome is a large balloon that illustrates the earth. Students enter the dome and learn about the geography and ecology of the world. The balloon fits two classrooms and four adults at a time. • Brianna Walker, a member of the New Milford High School National Honor Society, has been arranging a Sandy Hook benefit concert for Sunday, May 19th at 2 p.m. in the theatre. 	<p>Superintendent's Report</p>
8.	<p>Board Chairman's Report</p> <ul style="list-style-type: none"> • Mrs. Faulenbach said the budget referendum was today and depending on the outcome, the next meeting would be to make adjustments to the Board's adopted budget. • There will be a special board meeting on June 6th to discuss the security assessment report draft from Guidepost Solutions, LLC. It will be held primarily in executive session. 	<p>Board Chairman's Report</p>

<p>9.</p>	<p>Committee Reports</p> <p>A. Facilities Sub-Committee</p> <ul style="list-style-type: none"> Mr. Nichols said the Mercury Solar agreement was on the agenda tonight. <p>B. Operations Sub-Committee</p> <ul style="list-style-type: none"> Mr. McSherry said all of the items on the Operations Sub-Committee agenda were on tonight's agenda. <p>C. Policy Sub-Committee</p> <ul style="list-style-type: none"> Mrs. Faulenbach reported there are policies on the agenda tonight for approval and second review. <p>D. Committee on Learning</p> <ul style="list-style-type: none"> Mr. Lawson noted that Committee on Learning has some curriculum to discuss at the next committee meeting. He also said there will be a discussion of the current State initiatives. <p>E. Education Connection</p> <ul style="list-style-type: none"> Mrs. Celli Rigdon said the Education Connection meeting was held to discuss the cost of living increase of 1.8% to the agency. She noted she was elected President for next year. <p>F. Connecticut Boards of Education</p> <ul style="list-style-type: none"> Mrs. Faulenbach said CABE has sent invitations to Board members for a Leadership summit to be held May 28th and 29th. Also, on September 10th and 11th there will be a session on Board members' roles and responsibilities. <p>G. Negotiations Committee</p>	<p>Committee Reports</p> <p>A. Facilities Sub-Committee</p> <p>B. Operations Sub-Committee</p> <p>C. Policy Sub-Committee</p> <p>D. Committee on Learning</p> <p>E. Education Connection</p> <p>F. Connecticut Boards of Education</p> <p>G. Negotiations Committee</p>
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	<ul style="list-style-type: none"> Mrs. Faulenbach noted that the teamsters' contract is in arbitration and negotiations will take place this summer with paraeducators' and administrators' groups. 	
10.	<p>DISCUSSION AND POSSIBLE ACTION</p> <p>A. Exhibit A: Personnel — Certified, Non-Certified Appointments, Resignations and Leaves of Absence dated May 14, 2013</p> <p>Mr. McSherry moved to approve Exhibit A: Personnel — Certified, Non-Certified Appointments, Resignations and Leaves of Absence dated May 14, 2013, seconded by Mrs. Shook.</p> <ul style="list-style-type: none"> Mrs. Faulenbach welcomed Mrs. Menzies and Mr. Olenik. <p>The motion passed unanimously.</p> <p>B. Monthly Reports</p> <ol style="list-style-type: none"> Purchase Resolution D-655 Budget Position as of April 30, 2013 Request for Budget Transfers <p>Mr. Nichols moved to approve monthly reports: Purchase Resolution D-655, Budget Position as of April 30, 2013, and request for budget transfers, seconded by Mr. Lawson.</p> <ul style="list-style-type: none"> Mr. Lawson asked if there was any change from a previous report and Mr. Miller said there was no change but there was a typo in the variance as reported. He said the variance should be about \$400,000 versus the \$2,400,000 variance as printed. <p>The motion passed unanimously.</p> <p>C. Gifts & Donations</p> <ol style="list-style-type: none"> PTO — Exhibit B 	<p>A. Exhibit A: Personnel — Certified, Non-Certified Appointments, Resignations and Leaves of Absence dated May 14, 2013</p> <p>Motion made and passed unanimously to approve Exhibit A: Personnel — Certified, Non-Certified Appointments, Resignations and Leaves of Absence dated May 14, 2013.</p> <p>B. Monthly Reports</p> <ol style="list-style-type: none"> Purchase Resolution D-655 Budget Position as of April 30, 2013 Request for Budget Transfers <p>Motion made and passed unanimously to approve monthly reports: Purchase Resolution D-655, Budget Position as of April 30, 2013, and request for budget transfers.</p> <p>C. Gifts & Donations</p> <ol style="list-style-type: none"> PTO — Exhibit B

	<p>Mr. Lawson moved to accept Gifts & Donations: PTO – Exhibit B: to Hill and Plain Elementary School in the amount of \$3,536.00, to Northville Elementary School in the amount of \$7,852.00, and to Sarah Noble Intermediate School in the amount of \$15,645.12, seconded by Mr. Nichols.</p> <ul style="list-style-type: none"> Mrs. Faulenbach thanked the PTO. <p>The motion passed unanimously.</p> <p>D. Grant Approval 1. IDEA Grant</p> <p>Mr. Nichols moved to approve the IDEA Grant in the amount of \$932,650.00, seconded by Mr. McSherry.</p> <p>The motion passed unanimously.</p> <p>E. Policies for Second Review</p> <ol style="list-style-type: none"> 5114 Removal/Suspension/Expulsion 5141.27 First Aid/Emergency Medical Care 5144 Discipline 5145.111 Students/Probation/Police/Courts 5145.12 Student Search and Seizure 5145.122 Use of Dogs to Search School Property 5145.14 Students On Campus Recruitment 5157 Use of Physical Force and Seclusion <p>F. Policy for Approval 1. 5141.231 Psychotropic Drug Use</p> <p>Mr. Nichols moved to approve the following policy: 5141.231 Psychotropic Drug Use, seconded by Mr. McSherry.</p>	<p>Motion made and passed unanimously to accept Gifts & Donations: PTO – Exhibit B: to Hill and Plain Elementary School in the amount of \$3,536.00, to Northville Elementary School in the amount of \$7,852.00, and to Sarah Noble Intermediate School in the amount of \$15,645.12.</p> <p>D. Grant Approval 1. IDEA Grant</p> <p>Motion made and passed unanimously to approve the IDEA Grant in the amount of \$932,650.00.</p> <p>E. Policies for Second Review</p> <ol style="list-style-type: none"> 5114 Removal /Suspension / Expulsion 5141.27 First Aid/Emergency Medical Care 5144 Discipline 5145.111 Students/Probation/ Police/Courts 5145.12 Student Search and Seizure 5145.122 Use of Dogs to Search School Property 5145.14 Students On Campus Recruitment 5157 Use of Physical Force and Seclusion <p>F. Policy for Approval 1. 5141.231 Psychotropic Drug Use</p> <p>Motion made and passed unanimously to approve the following policy: 5141.231 Psychotropic Drug Use.</p>
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	<p>The motion passed unanimously.</p> <p>G. Food and Nutrition Services 1. Healthy Food Certification Statement</p> <p>Mr. Nichols moved that the New Milford Board of Education continue its participation in the National School Lunch Program and pursuant to section 10-215f of the Connecticut General Statutes certify that all food items offered for sale to students meet the Connecticut Nutrition Standards for the period July 1, 2013 through June 30, 2014. The Board will exclude from certification food items that do not meet the Connecticut Nutrition Standards provided that (1) such food is sold in connection with an event occurring after the end of the regular school day or on the weekend, (2) such sale is at the location of the event, and (3) such food is not sold from a vending machine or school store, seconded by Mrs. Shook.</p> <p>The motion passed unanimously.</p> <p>H. Mercury Solar Agreement</p> <p>Mr. Nichols moved to bring the Purchase Power Agreement with Mercury Commercial Finance to install solar panels at Hill and Plain Elementary School and New Milford High School to the Town Council for approval, seconded by Mr. McSherry.</p> <ul style="list-style-type: none"> • Mrs. Faulenbach said this was discussed at the Facilities Sub-committee meeting and has to go to the Town Council for approval. • Mr. Wellman asked for clarification as to whether the contract was being sent to the Town Council or just forwarding this to them for their review and approval. Mrs. Faulenbach said this was not the contract. 	<p>G. Food and Nutrition Services 1. Healthy Food Certification Statement</p> <p>Motion made and passed unanimously that the New Milford Board of Education continue its participation in the National School Lunch Program and pursuant to section 10-215f of the Connecticut General Statutes certify that all food items offered for sale to students meet the Connecticut Nutrition Standards for the period July 1, 2013 through June 30, 2014. The Board will exclude from certification food items that do not meet the Connecticut Nutrition Standards provided that (1) such food is sold in connection with an event occurring after the end of the regular school day or on the weekend, (2) such sale is at the location of the event, and (3) such food is not sold from a vending machine or school store.</p> <p>H. Mercury Solar Agreement</p> <p>Motion made and passed unanimously to bring the Purchase Power Agreement with Mercury Commercial Finance to install solar panels at Hill and Plain Elementary School and New Milford High School to the Town Council for approval.</p>
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<p>I.</p>	<p>The motion passed unanimously.</p> <p>Community Oriented Policing Services (COPS) Memorandum of Agreement</p> <p>Mr. Lawson moved to authorize the Superintendent of Schools to enter into the COPS Secure our School grant application in accordance with the Memorandum of Understanding between the New Milford Public Schools and the New Milford Police Department, seconded by Mr. Nichols.</p> <p>The motion passed 7-0-1.</p> <p>Aye: Mrs. Faulenbach, Mr. Lawson, Mr. McSherry, Mr. Nichols, Mrs. Celli Rigdon, Mr. Shaffer, Mrs. Shook</p> <p>Abstain: Mr. Wellman</p>	<p>I. Community Oriented Policing Services (COPS) Memorandum of Agreement</p> <p>Motion made and passed to authorize the Superintendent of Schools to enter into the COPS Secure our School grant application in accordance with the Memorandum of Understanding between the New Milford Public Schools and the New Milford Police Department.</p>
<p>11.</p> <p>A.</p> <p>B.</p>	<p>ITEMS FOR INFORMATION AND DISCUSSION</p> <p>Textbook Previews – Grade 9, 10 and 12</p> <p>Field Trip Report</p>	<p>ITEMS FOR INFORMATION AND DISCUSSION</p> <p>Textbook Previews – Grade 9, 10 and 12</p> <p>Field Trip Report</p>
<p>12.</p> <p>A.</p> <p>B.</p>	<p>Executive Session (Anticipated)</p> <p>Discussion of pending CHRO claims involving claims of discrimination and/or harassment.</p> <p>Discussion of Superintendent’s performance and performance evaluation and possible new contract of employment.</p> <p>Mr. Nichols moved that the Board enter into Executive Session to discuss pending CHRO claims involving claims of discrimination and/or harassment and to discuss the Superintendent’s performance, evaluation, employment and contract</p>	<p>Executive Session (Anticipated)</p> <p>Discussion of pending CHRO claims involving claims of discrimination and/or harassment.</p> <p>Discussion of Superintendent’s performance and performance evaluation and possible new contract of employment.</p> <p>Motion made and passed unanimously to enter into Executive Session to discuss pending CHRO claims involving claims of discrimination and/or harassment</p>

	<p>and to invite Attorney Baio and Dr. JeanAnn C. Paddyfote into the session, seconded by Mr. McSherry.</p> <p>The motion passed unanimously.</p> <p>The Board entered executive session at 8:19 p.m.</p> <p>Attorney Baio and Dr. Paddyfote left executive session at 9:04 p.m.</p> <p>Dr. Paddyfote entered executive session at 9:19 p.m.</p> <p>Dr. Paddyfote left executive session at 9:52 p.m.</p> <p>The Board returned to public session at 10:09 p.m.</p>	<p>and to discuss the Superintendent's performance, evaluation, employment and contract and to invite Attorney Baio and Dr. JeanAnn C. Paddyfote into the session.</p>
13.	<p>DISCUSSION AND POSSIBLE ACTION</p> <p>A. Discussion and possible authorization of Board Chair, Superintendent and Board Counsel to resolve pending CHRO claims.</p> <ul style="list-style-type: none"> No action taken. <p>B. Discussion and possible authorization of Board Chair and Board Counsel to enter discussions and/or negotiations with Superintendent of Schools on new, three-year contract.</p> <p>Mr. Nichols moved that the Board authorize the Board Chair and the Board's legal counsel to enter into discussions and/or negotiations with the Superintendent of Schools on a new, three-year contract, the final terms of which shall be subject to Board approval, seconded by Mrs. Shook.</p> <p>The motion passed unanimously.</p>	<p>DISCUSSION AND POSSIBLE ACTION</p> <p>A. Discussion and possible authorization of Board Chair, Superintendent and Board Counsel to resolve pending CHRO claims.</p> <p>B. Discussion and possible authorization of Board Chair and Board Counsel to enter discussions and/or negotiations with Superintendent of Schools on new, three-year contract.</p> <p>Motion made and passed unanimously that the Board authorize the Board Chair and the Board's legal counsel to enter into discussions and/or negotiations with the Superintendent of Schools on a new, three-year contract, the final terms of which shall be subject to Board approval.</p>
14.	<p>Adjourn</p> <p>Mr. Nichols moved to adjourn the meeting at 10:10</p>	<p>Adjourn</p> <p>Motion made and passed to adjourn</p>

New Milford Board of Education
Regular Meeting Minutes
May 14, 2013
Sarah Noble Intermediate School Library Media Center

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	p.m., seconded by Mr. McSherry and passed unanimously.	the meeting at 10:10 p.m.
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Respectfully submitted:

A handwritten signature in cursive script that reads "Daniele Shook".

Daniele Shook
Secretary
New Milford Board of Education