

## AGGREGATE NET ENERGY METERING CREDIT PURCHASE AGREEMENT

THIS AGGREGATE NET ENERGY METERING CREDIT PURCHASE AGREEMENT (“Agreement”) is made and entered into as of this 10/19/2021 (the “*Effective Date*”) by and between Anne Arundel County, Maryland with an address of 2660 Riva Road, Ste 300 Annapolis, MD 21409 (“*Buyer*”) and Glenn Burnie Landfill Solar LLC, with an address of 111 Speen Street, Suite 410, Framingham, MA 01701 (“*Developer*”). Buyer and Developer are sometimes hereinafter referred to individually as a “*Party*” and collectively as the “*Parties*”.

- (A) **Summary of Attachments:** This agreement incorporates the following Attachment into the agreement:
- Attachment A – Description of Premises,
  - Attachment B – Preliminary Description of Facility
  - Attachment C -Summary of Rates, Attachment
  - Attachment D – Termination Payment
  - Attachment E – Reserved
  - Attachment F- Insurance Coverage
- (B) Developer proposes to construct one solar photovoltaic generation facility (the “*Facility*”) with an aggregate generating capacity of up to approximately 2,765 kilowatts DC (the “*Project*”) on the property described in Attachment A hereto (the “*Property*”);
- (B) the Parties intend that, pursuant to the State of Maryland Aggregate Net Energy Metering (ANEM) Rules (defined below), the Project will be comprised of one ANEM Facility (defined below), and will generate ANEM Credits (defined below);
- (C) pursuant to the Maryland ANEM Rules, Developer (or its designee) will request ANEM service from the Local Distribution Company (“LDC”) as a ANEM Customer of the Facility and, as such, intends to periodically accrue ANEM Credits associated with the Electricity generated by the Facility during the Term;
- (D) subject to the terms and conditions of this Agreement, Developer desires to deliver to the LDC all of the electricity generated by the Project during the Term and Buyer desires to pay for a percentage of such electricity as set forth on Attachment D (the “*Buyer Allocation Percentage*”) generated by the Project during the Term and to receive from the LDC an allocation of a corresponding portion of the ANEM Credits generated by the Project so that Buyer may use the ANEM Credits to offset electric utility bills associated with its electric utility accounts with the LDC.

**NOW, THEREFORE,** in consideration of the foregoing recitals, the mutual promises, representations, warranties, covenants, conditions herein contained, and the Exhibits attached hereto, Buyer and Developer agree as follows. Once executed, this agreement is subject to the ratification of County Council to be enforceable. All terms herein are subject to their approval.

### Section 1. DEFINED TERMS; RULES OF INTERPRETATION

Capitalized terms used in this Agreement shall have the meanings ascribed below

#### Defined Terms

“**Affiliate**” means, with respect to any Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person.

“**Agreement**” means this Solar Power Purchase Agreement, including all Attachments and exhibits hereto, each of which are hereby incorporated by reference into and made a part of this Agreement.

“**Applicable Legal Requirements**” means any present and future law, act, rule, requirement, order, by-law, ordinance, regulation, judgment, decree, or injunction of or by any Governmental Authority, ordinary or extraordinary, foreseen or unforeseen, and all licenses, permits, tariffs, and other governmental consents, which may at any time be applicable to the Facility, or any part thereof or to any condition or use thereof, or a Party’s rights and obligations hereunder and all leases, permits and other governmental consents which are or may be required for the use and occupancy of the Property and for the design, installation, operation, maintenance and removal of the Facility.

“**Bankrupt**” means that a Party or other entity (as applicable): (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails (or admits in writing its inability) generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor’s rights, or a petition is presented for its winding-up, reorganization or liquidation, which proceeding or petition is not dismissed, stayed or vacated within twenty (20) Business Days thereafter; (v) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights; (vi) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets; (viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“**Billing Cycle**” means the monthly billing cycle established by the LDC.

“**Business Day**” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

“**Claiming Party**” has the meaning set forth in Section 8.

“**Commercial Operation**” means with respect to a Facility, that the Facility is capable of producing Electricity, is ready for regular, daily operation, has approval to interconnect to the LDC system, and has all relevant governmental approvals.

“**Commercial Operation Date**” means the first day on which the Facility achieves Commercial Operation, as defined herein, is ready for Commercial Operation, as certified in writing by Developer to Buyer in a notice of Commercial Operation.

“**Contract Year**” means a 365-day period commencing on the Commercial Operation Date, and each subsequent 365-day period thereafter.

“**Delivery Point**” means, with respect to a Facility, the point behind which such Facility is interconnected with the LDC. The Delivery Point shall in all cases be on the Developer’s side of the LDC Metering Device.

“**Developer Metering Device**” means with respect to the Facility, any and all revenue quality meters installed by Developer at or before the Delivery Point needed for the registration, recording, and transmission of information regarding the amount of Electricity generated by a Facility and delivered to the Delivery Point.

“**Early Termination Date**” shall have the meaning ascribed to it in Section 9.

“**Effective Date**” is the date first set forth in the introductory paragraph of this Agreement.

“**Electricity**” means the electricity generated by the Facility and delivered to Buyer at the Delivery Point, as metered in whole kilowatt-hours (kWh) at the Developer Metering Device. The Electricity delivered to Buyer at the Delivery Point shall be deemed to be equal to the electric energy measured at the Developer Metering Device; actual energy losses between the Developer Metering Device and the Delivery Point shall not reduce the measurement of Electricity.

“**Environmental Attributes**” means the characteristics of electric power generation by the Facility that have intrinsic value separate and apart from the energy and arising from the perceived environmental benefit of the Facility or the energy produced by the Facility including but not limited to all environmental attributes or renewable energy credits, including carbon trading credits, or certificates, emissions reduction credits, emissions allowances, green tags and tradable renewable credits, environmental and other attributes that differentiate the Facility or energy produced by the Facility from energy generated by fossil fuel based generation units, fuels or resources, characteristics of the Facility that may result in the avoidance of environmental impacts on air, soil or water, such as the absence of emission of any oxides of nitrogen, sulfur or carbon or mercury, or other base or chemical, soot particulate matter or other substances attributable to the Facility or the compliance of the Facility or energy with the law, rules and standards of the United Nations Framework convention on Climate Changes or the Kyoto Protocol or the UNFCCC or crediting “early action” with a view thereto, or laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency or successor administrator of any state or federal entity given jurisdiction over a program involving transferability of rights arising from Environmental Attributes and Reporting Rights. Environmental Attributes does not include Environmental Incentives.

“**Environmental Incentives**” means any credit, benefit, reduction, offset, financial incentive, tax credit and other beneficial allowance that is in effect as of the Effective Date or may come into effect in the future, including, to the extent applicable and without limitation, (i) greenhouse gas offsets under the Regional Greenhouse Gas Initiative, (ii) tax credits, incentives or depreciation allowances established under any federal or state law, (iii) fuel-related subsidies or “tipping fees” that may be paid to accept certain fuels, and (iv) other financial incentives in the form of credits, tax write-offs, reductions or allowances under applicable Legal Requirements attributable to the Facility or Electricity, and all Reporting Rights with respect to such incentives.

“**Events of Default**” has the meaning set forth in Section 9.

“**Facility**” or “**Facility**” have the meanings set forth in the recitals. For avoidance of doubt, except as otherwise expressly provided herein, the term “Facility” as used in this Agreement shall correspond with the term “Unit” as used in the Net Metering Rules.

“**Force Majeure**” means any event or circumstance having an adverse effect upon a Party’s ability to perform pursuant to this Agreement if such event or circumstance is beyond the Party’s reasonable control and is not the result of willful or negligent act or omission of the Party relying thereon as justification for not performing any obligation or complying with any obligation required of such Party under this Agreement. “Force Majeure” events or circumstances may include but are not restricted to events of the following kinds: an act of God, an act of war, insurrection, riot or civil disturbance, fire, explosion, flood, epidemics, quarantine, pandemics, unusually severe and extraordinary weather conditions, acts of government or regulatory authorities,

delays or unavailability of equipment and materials due to Force Majeure event, shortages of labor due to Force Majeure events and strikes or lockouts which materially affect, impact or impede obligations under this Agreement. Force Majeure will not be based on (i) Buyer's inability to economically use Electricity purchased hereunder, or (ii) Developer's ability to sell Electricity at a price greater than the ANEM Credit Price under this Agreement.

**“Governmental Authority”** means the United States of America, the State of Maryland, and any political or municipal subdivision thereof (including but not limited to Buyer), and any agency, department, commission, board, bureau, or instrumentality of any of them, and any independent electric system operator.

**“Governmental Charges”** means all applicable federal, state and local taxes (other than taxes based on income or net worth but including, without limitation, sales, use, gross receipts or similar taxes), governmental charges, emission allowance costs, duties, tariffs, levies, leases, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, LDC, or other similar entity, on or with respect to the Electricity or this Agreement.

**“Interest Rate”** means a fluctuating interest rate per annum equal to the sum of the lesser of (i) the Prime Rate as stated in the “Bonds, Rates & Yields” section of the The Wall Street Journal on the Effective Date and thereafter on the first day of every calendar month, plus two (2) percentage points, or (ii) ten percent (10%). In the event that such rate is no longer published in The Wall Street Journal or such publication is no longer published, the Interest Rate shall be set using a comparable index or interest rate selected by Buyer and reasonably acceptable to Developer. The Interest Rate hereunder shall change on the first day of every calendar month. Interest shall be calculated daily on the basis of a year of three hundred and sixty-five (365) days and the actual number of days for which such interest is due.

**“LDC”** means the electric local distribution company that provides electric distribution service to the Buyer, as set forth in Attachment D.

**“LDC Facility”** means the electric distribution system operated and maintained by the LDC.

**“LDC Metering Device”** means one or more meters furnished and installed by the LDC for the purpose of measuring the Electricity delivered by the LDC to the Host Customer and delivered by the Host Customer to the LDC.

**“ANEM Accounts”** shall have the meaning given this term in the Net Metering Rules and shall include those accounts set forth on Attachment D.

**“Net Metering”** shall have the meaning set forth in the State of Maryland Aggregate Net Energy Metering (ANEM) Rules.

**“ANEM Credit Price”** shall mean the price per kWh of Electricity delivered to the Delivery Point, as set forth in Attachment D attached hereto.

**“ANEM Credit Value”** shall mean the applicable monetary value of an excess kilowatt-hour of electricity, determined in accordance with the Net Metering Rules.

**“ANEM Facility”** shall have the meanings set forth in the Net Metering Rules.

**“Net Metering Rules”** means collectively, Maryland Public Utility Companies Code §7-306 and COMAR 20.50.10, as same may be amended.

“**Person**” means an individual, general or limited partnership, corporation, municipal corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority, limited liability company, or any other entity of whatever nature.

“**Property**” has the meaning set forth in Attachment A.

“**Reporting Rights**” means the right of Developer to report to any federal, state or local agency, authority or other party, including without limitation under Section 1605(b) of the Energy Policy Act of 1992 and provisions of the Energy Policy Act of 2005, to the extent that such Acts provide such rights, or under any present or future domestic, international or foreign emissions trading program, that Developer owns the Environmental Attributes and the Environmental Financial Incentives associated with energy produced by the Facility.

“**Term**” shall have the meaning set forth in Section 3 herein.

“**Termination Date**” means the earlier to occur of (i) the last day of the Term, (ii) the date of termination of this Agreement as the result of an Event of Default, and (iii) the date of termination pursuant to Section VIII herein.

“**Termination Payment**” means an amount payable by Buyer to Developer in the event of termination of this Agreement as a result of an Event of Default, as set forth in Attachment D attached hereto.

## Section 2 SYSTEM DESCRIPTION

This Agreement provides the terms and conditions upon which the Developer may, subject to satisfaction or waiver of the conditions precedent below, construct and install the Facility and allocate to Buyer, and Buyer shall purchase, the Buyer Allocation Percentage of the electricity generated by the Facility and related ANEM Credits. A preliminary description of the Facility is set forth in Attachment B hereto.

## Section 3 TERM

(a) Term. The term of this Agreement (the “**Term**”) shall commence on the Effective Date and shall remain in effect until the twenty-fifth (25th) anniversary of the Commercial Operation Date, or such earlier date provided herein. The Term may be extended by mutual written agreement of the Parties for two (2) additional terms of up to five (5) years each at an ANEM Credit Price to be agreed upon by the Parties at the time of the extension.

(b) Without constituting a default under this Agreement, and without liability of either Party to the other Party (except for amounts then due under this Agreement), Developer shall have the right, but not the obligation, to terminate this Agreement prior to expiration of the Term upon the occurrence of an unstayed order of a court or administrative agency having the effect of subjecting the sales of Electricity to federal or state regulation of prices and/or services.

(c) Conditions Precedent. The obligation of Developer to commence providing Electricity to the Delivery Point and to arrange for the allocation of the ANEM Credits to Buyer under this Agreement is subject to the fulfillment of each of the following conditions precedent or waiver by Developer:

(i) Developer shall have obtained financing on terms acceptable to Developer in its sole discretion. For the purposes of this subparagraph (c)(i), financing may include debt financing, equity financing, tax equity financing, loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, interest rate exchanges, or swap agreements, and any other documents relating to the development, bridge construction or the permanent financing for the construction and operation of the Facility.

(ii) Developer shall have obtained all permits, licenses and other approvals required by Applicable Legal Requirements and from the LDC and owner of the Property for construction, installation and operation of the Facility with terms and conditions acceptable to Developer;

(iii) Developer shall have entered into a lease for the Property (the “**Lease**”) on terms and conditions acceptable to Developer;

(iv) Developer shall have obtained all interconnection approvals or any other government or utility approvals or permits required at law or by the Utility to be obtained for construction, installation or operation of the Solar Facility, all on terms and conditions acceptable to Developer in its sole discretion;

(v) Buyer shall have entered into all contracts and delivered all other documents required by the LDC in connection with this Agreement and the transactions contemplated hereby (the “Utility Documents”) to the reasonable satisfaction of Developer, or the LDC shall have waived the requirements for such Utility Documents;

(vi) Developer shall have entered into all contracts for procurement, construction, installation and operation of the Facility;

(vii) Developer shall have satisfied itself that the Facility, if constructed, would not be in violation of zoning or land use laws applicable to the Property, it being acknowledged by Buyer that Developer is under no obligation to apply for or obtain zoning relief;

(viii) Developer shall have confirmed that Developer will obtain all applicable Environmental Attributes, Environmental Incentives and Tax Credits;

(ix) Buyer shall have provided Developer with information required hereunder with respect to the ANEM Accounts sufficient to permit allocation of ANEM Credits by the LDC;

(x) for ground-mounted Facilities, Developer has performed a title examination of the Properties and received an environmental Phase I or equivalent and is satisfied in its sole discretion with the results of such examination.

Developer shall give Buyer written notice of Developer's intent to terminate this Agreement due to nonfulfillment or failure of any of the foregoing conditions. In the event Developer terminates this Agreement, the Parties shall have no further obligations hereunder except those which survive expiration or termination of this Agreement in accordance with the terms hereof. Developer shall notify Buyer when the conditions are met, and on or before such notice, Developer shall provide Buyer with the construction schedule.

#### **Section 4 FACILITY OWNERSHIP, INSTALLATION, OPERATION, MAINTENANCE, AND REMOVAL**

(a) Construction. Developer will use diligent and commercially reasonable efforts to (i) obtain all permits and financing for the Project, (ii) furnish all design, materials, supplies, tools, equipment, labor, and other services necessary for the installation of the Facility, and (iii) maintain the Facility in good condition and repair and in accordance with Applicable Legal Requirements and the terms of this Agreement.

(b) Title to Facility. Except as otherwise set forth in this Agreement, as between the Parties during the Term of this Agreement, all ownership of and title to the Facility, permits, approvals, Environmental Attributes, Environmental Incentives, Reporting Rights and tax benefits associated with the Facility shall be with the Developer. Developer shall be the legal and beneficial owner of the Facility, which Facility will at all times retain the legal status of personal property of Developer as defined under Article 9 of the Uniform Commercial Code. Buyer will not take a position on any tax return or in other filings suggesting that it is anything other than a purchaser of Electricity from the Facility. The Parties intend this Agreement to be treated as a "service contract" within the meaning of section 7701(e)(3) of the Internal Revenue Code.

(c) Cooperation Regarding Authorizations. Developer will prepare, file and manage applications for all permits, approvals, registrations and other related matters under the applicable Environmental Attributes program and with the LDC and any other Governmental Authority and, to the extent necessary, Developer will do so on behalf of Buyer. Buyer agrees to reasonably cooperate with Developer in preparing such applications and securing such permits, approvals and registrations, including without limitation, timely executing and delivering all documentation required from Buyer relating thereto. Where allowed by law and if necessary, and subject to Applicable Legal Requirements, Buyer shall designate Developer as its agent in obtaining all permits, approvals, registrations and additional authorizations required of Buyer in connection with this Agreement and the transactions contemplated hereby.

(d) Notice of Commercial Operation. Subject to the provisions of this Agreement, Developer shall notify Buyer when the Facility achieves Commercial Operation (“*Notice of Commercial Operation*”), and shall in such notice state the Commercial Operation Date.

(e) ANEM Provisions.

(1) ANEM Service Application. Developer shall prepare the necessary application for ANEM Credits for submission to the LDC, and Buyer shall cooperate fully with Developer’s preparation of such documents.

(2) Allocation of ANEM Credits. At Developer’s request, Buyer shall promptly take any action and execute any documents, as required, to facilitate the allocation of the ANEM Credits accruing to Developer, to the ANEM Accounts. Buyer acknowledges and agrees that it shall not allocate or permit to be allocated any ANEM Credits generated by any other source to the ANEM Accounts if such allocation would affect Buyer’s ability to comply with its obligations under this Agreement, provided that, whether or not such effect is anticipated, Buyer shall provide at least thirty (30) days’ notice to Developer prior to undertaking or permitting any such allocation.

(3) Annual Consumption. Buyer represents and warrants that the aggregate annual consumption of the ANEM Accounts set forth on Attachment C is greater than 100% of the estimated Annual Electric Output as set forth on Attachment C.

(5) Cooperation on Assurance of ANEM Eligibility. Buyer agrees to promptly provide such information and assistance to Developer as may be necessary to allow Developer to avail itself of ANEM, as it may be amended from time to time.

(6) Consolidated Billing of Electricity Charges. In order to facilitate Buyer’s ability to use ANEM Credits allocated to the ANEM Accounts, Buyer shall arrange for the charges for its electricity purchases from competitive electricity suppliers (if any) to be billed through its LDC invoices as necessary based on Maryland net metering requirements.

(f) No Resale of Electricity. This Agreement is an agreement by Buyer to pay for a portion of the Electricity delivered to the LDC as a means of facilitating the sale of ANEM Credits to Buyer. Nevertheless, to the extent that this Agreement is deemed to constitute an agreement for the purchase of Electricity, the Electricity purchased by Buyer from Developer under this Agreement shall not be resold to any other Person, nor shall such Electricity be assigned or otherwise transferred to any other Person (other than to the LDC pursuant to the Net Metering Rules), without prior approval of Developer, which approval shall not be unreasonably withheld, and Buyer shall not take any action which would cause Buyer or Developer to become a utility or public service company.

(g) No Right to Enter or Use Property. Except as required by executed Lease Agreement or other applicable law, regulation, or property rights, the Buyer shall not have, nor shall it assert, any right under this Agreement to enter upon or use the Property or the Facilities in any manner.

(h) No Assertion that Developer is a Utility. Buyer shall not assert that Developer is an electric utility or public service company or similar entity that has a duty to provide service, or is otherwise subject to rate regulation.

**Section 5. PURCHASE AND SALE; DELIVERY; GOVERNMENTAL CHARGES**



(a) Purchase and Sale of Electricity. Commencing on the Commercial Operation Date of the first Facility and continuing throughout the remainder of the Term, Developer shall sell and make available to the Buyer and Buyer shall pay for a percentage of ANEM Credits equal to the Buyer Allocation Percentage and, as specified below, and Buyer shall be allocated a percentage of the ANEM Credits equal to the Buyer Allocation Percentage.

(b) Price for Electricity. Notwithstanding any other provision of this Agreement, Buyer shall pay Developer for the Buyer's Allocation Percentage of ANEM Credits associated with the Electricity generated by the Facility, as metered at the LDC Metering Device, at the ANEM Credit Price as provided in Attachment C. The payment to be made by Buyer to Developer shall equal Buyer's Allocation Percentage multiplied by the Electricity and the ANEM Credit Price for the relevant period.

(c) Governmental Charges.

(i) Developer is responsible for local, state and federal income taxes attributable to Developer for income received under this Agreement.

(ii) Buyer shall pay directly or reimburse Developer on an after-tax basis for all sales and use taxes that may be imposed by any Governmental Authority on the sale of ANEM Credits to Buyer.

(iii) Both Parties shall use reasonable efforts to administer this Agreement and implement its provisions so as to minimize Governmental Charges. In the event any of the sales hereunder are to be exempted from or not subject to one or more Governmental Charges, the applicable Party shall, promptly upon the other Party's request therefore, provide the applicable Party with all necessary documentation to evidence such exemption or exclusion.

## **Section 6. ENVIRONMENTAL ATTRIBUTES**

(a) Title to Environmental Attributes. All Environmental Attributes, Environmental Incentives and Reporting Rights relating to the Facility or the Electricity, other than ANEM Credits, if any, will be and remain property of Developer. Developer shall have all right, title, and interest in and to any and all such Environmental Attributes, Environmental Incentives and Reporting Rights that relate to the Electricity during the Term.

(b) Reporting of Ownership of Environmental Attributes. Buyer shall not report to any Person that any Environmental Attributes, Environmental Incentives or Reporting Rights relating to the Electricity or the Facility belong to any Person other than Developer.

(c) Further Assurances. At Developer's request, Buyer shall execute all such documents and instruments reasonably necessary to effect or evidence Developer's right, title and interest in and to the Environmental Attributes, Environmental Incentives and Reporting Rights relating to the Electricity. If the standards used to qualify Environmental Attributes, or Environmental Incentives to which Developer is entitled under this Agreement are changed or modified, and the Parties shall use all commercially reasonable efforts to cause the Environmental Attributes to comply with new standards as changed or modified.

## **Section 7. RESERVED**

## **Section 8. FORCE MAJEURE**

(a) Performance Excused by Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the “**Claiming Party**”) gives written notice and details of the Force Majeure to the other Party as soon as practicable, then the Claiming Party will be excused from the performance of its obligations under this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure, but the period of time to pay shall be extended if Buyer is prevented from paying due to Force Majeure). The Party affected by Force Majeure will use commercially reasonable efforts to eliminate or avoid the Force Majeure and resume performing its obligations; provided, however, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion. The non-Claiming Party will not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure for so long as the claim of Force Majeure continues.

(c) Termination Due to Force Majeure. If a Claiming Party claims a Force Majeure for a consecutive period of twelve (12) calendar months or longer, then either Party may terminate this Agreement, in whole or in part, without any liability to the Claiming Party as a result of such termination.

(d) Change in Law. In the event that a Change in Law occurs, including without limitation, a change in the Net Metering Rules, the administration or interpretation thereof by the Maryland Public Service Commission or the LDC, or, changes in MDE laws impacting the operation and or maintenance of capped landfills (“Change in Law”) which (a) materially restricts the ability of Developer to deliver ANEM Credits generated by the Facility to Buyer, or the ability of Electricity generated by the Facility to be delivered to the LDC or the ability of Buyer to receive ANEM Credits, (b) results in the Facility for which Buyer is Host Customer being disqualified as a ANEM Facility, or (c) otherwise materially impacts the ability of either Party to perform its obligations under this Agreement, including changes in Law that result in material increase in Developer’s costs of construction and installation, or operation of the Facility, then, upon a Party’s receipt of notice of such Change in Law from the other Party, the Parties shall promptly and in good faith endeavor to negotiate such amendments to or restatements of this Agreement as may be necessary to either develop a contractual plan to address the Changes in Law or to come to reasonable accommodation to compensate the Developer for actual incurred costs as both parties move towards termination of the PPA agreement.

Without limiting the foregoing, such amendments may include an amendment and restatement of this Agreement.

## **Section 9. EVENTS OF DEFAULT; REMEDIES**

(a) Events of Default. An “**Event of Default**” means, with respect to a Party (a “**Defaulting Party**”), the occurrence of any of the following:

- (i) the failure to make, when due, any payment required under this Agreement if such failure is not remedied within ten (10) Business Days after receipt of written notice;
- (ii) any representation or warranty made by such Party in this Agreement (including the License) is false or misleading in any material respect when made or when deemed made or repeated;
- (iii) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default); provided, that the Defaulting Party shall have sixty days after receipt of written notice of default to cure the alleged breach, or additional time if the Defaulting Party has diligently commenced and is pursuing a cure of such breach during such sixty (60) day period;

(iv) such Party becomes Bankrupt, or any assignment shall be made by the Developer or by any guarantor of the Developer for the benefit of creditors, or if a petition is filed by the Developer or by any guarantor of the Developer for adjudication as a bankrupt, or for reorganization or an arrangement under any provision of the Bankruptcy Act as then in force and effect, or if an involuntary petition under any of the provisions of the Bankruptcy Act is filed against the Developer and such involuntary petition is not discharged within ninety (90) days thereafter, in any of those events the Buyer may terminate this Agreement upon written notice to the Developer;

(v) such Party fails to provide or maintain in full force and effect any required insurance, if such failure is not remedied within five (5) Business Days after receipt of written notice from the Non-Defaulting Party to the Defaulting Party;

(vi) the Occurrence of an Event of Default under the Lease.

(b) Remedies for Event of Default. If at any time an Event of Default with respect to a Defaulting Party has occurred and is continuing beyond applicable notice and cure periods, the other Party (the “**Non-Defaulting Party**”) shall, without limiting the rights or remedies available to the Non-Defaulting Party under this Agreement or applicable Law, but subject to the provisions of Sections 9(c) and Section 19, have the right to any of the following: (a) by notice to the Defaulting Party, to designate a date, not earlier than Seven(7) Business Days after the date such notice is effective, as an early termination date (“**Early Termination Date**”) in respect of this Agreement; (b) to withhold any payments due to the Defaulting Party under this Agreement; and (c) to suspend performance due to the Defaulting Party under this Agreement and (d) exercise all other rights and remedies available at law or in equity to the Non-Defaulting Party. Notwithstanding any termination by User under this Section 9(b), the Lease shall remain in full force and effect subject to any of Landlord’s (as defined in the Lease) rights and remedies under the Lease.

(c) Developer Rights Upon Termination for Default. In the event that Developer is the Non-Defaulting Party and elects to terminate this Agreement as provided in Section 9, Buyer shall pay Developer the Termination Payment as liquidated damages as provided in Attachment D excluding instances of Force Majeure or Changes in Law as outlined above. In the event that Developer elects the foregoing remedy, such express remedy and any associated measure of damages shall be the sole and exclusive remedy available to Developer as a result of termination of this Agreement subject, however, to subsection (g) below. In the event Developer terminates this Agreement pursuant to this Section 9(c), unless the Lease is terminated due to an Event of Default under the Lease then following such termination, the Lease shall remain in full force and effect and Developer shall take commercially reasonable efforts to find an alternate off-taker or purchaser of ANEM credits, acceptable to Developer and its financing parties, if applicable, in their sole discretion, to mitigate its damages as the result of an Event of Default and the Termination Payment shall be reduced accordingly to account for such mitigation. In the event the Lease is terminated due to a Landlord Event of Default under the Lease, the Landlord shall pay the termination payment as set forth in the Lease in lieu of any Termination Payment hereunder.

(d) Termination Payment Notice. In the event that a Non-Defaulting Party elects to require payment of the Termination Payment as provided in Section 9 herein, then, the Non-Defaulting Party will notify the Defaulting Party of the amount due and outstanding under this Agreement. The Defaulting Party shall pay the Termination Payment within sixty days after the Early Termination Date. Payments not made within 60-day period shall accrue interest at the Interest Rate.

(e) Closeout Setoffs. The Non-Defaulting Party shall be entitled, at its option and in its discretion, to set off, against any amounts due and owing from the Defaulting Party under this Agreement, any amounts due and owing to the Defaulting Party under this Agreement.

(f) Remedies Cumulative. Except as otherwise provided in Sections 9(c) and 9(d), the rights and remedies contained in this Section 9 are cumulative with the other rights and remedies available under this Agreement or applicable law.

(g) Unpaid Obligations. The Non-Defaulting Party shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available under this Agreement. Notwithstanding anything to the contrary herein, the Defaulting Party shall in all events remain liable to the Non-Defaulting Party for any amount payable by the Defaulting Party in respect of any of its obligations remaining outstanding after any such exercise of rights or remedies.

## **Section 10. INVOICING AND PAYMENT**

(a) Invoicing and Payment. Developer will bill Buyer on a monthly basis and Buyer shall pay such invoice not later than thirty (30) days after receipt of the applicable invoice (or, if such day is not a Business Day, then on the next Business Day). Each invoice shall state (i) the quantity of Electricity produced by the Facility and recorded at the Developer Metering Device during such billing period, (ii) the ANEM Credit Price and (iii) the total amount due from Buyer. Each Party will make payment by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid within thirty (30) days after the applicable due date will accrue interest at the Interest Rate until paid in full.

(b) Disputed Amounts. A Party may in good faith dispute the correctness of any invoice (or any adjustment to any invoice) under this Agreement at any time within three (3) months following the date the invoice (or invoice adjustment) was rendered. In the event that either Party disputes any invoice or invoice adjustment, such Party will nonetheless be required to pay the full amount of the applicable invoice or invoice adjustment on the applicable payment due date, and to give notice of the objection to the other Party.

(c) Records and Audits. Notwithstanding any other record keeping provision of the Maryland General Laws, each Party will keep, for a period not less than three (3) years after the expiration or termination of any transaction, records sufficient to permit verification of the accuracy of billing statements, invoices, charges, computations and payments for such transaction. During such period each Party may, at its sole cost and expense, and upon reasonable notice to the other Party, examine the other Party's records pertaining to transactions during such other Party's normal business hours.

## **Section 11. REPRESENTATIONS AND WARRANTIES; BUYER ACKNOWLEDGEMENT**

(a) Representations and Warranties. Each Party represents and warrants to the other Party that:

(i) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, or any Applicable Legal Requirements;

(ii) this Agreement, and each document executed and delivered in accordance with this Agreement, constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any bankruptcy, insolvency, reorganization and other Applicable Legal Requirements affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the applicable court;

(iii) it is acting for its own account, and has made its own independent decision to enter into this Agreement, and is not relying upon the advice or recommendations of the other Party in so doing;

(iv) it is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement; and

(v) it understands that the other Party is not acting as a fiduciary for or an adviser to it or its Affiliates.

(b) Acknowledgement Regarding Inapplicability of Bankruptcy Code Section 366. Buyer acknowledges and agrees that, for purposes of this Agreement, Developer is not a “utility” as such term is used in Section 366 of the United States Bankruptcy Code (the “*Bankruptcy Code*”), and Buyer agrees to waive and not to assert the applicability of the provisions of Section 366 in any bankruptcy proceeding wherein Buyer is a debtor.

(c) Additional Representations by Buyer.

(i) Buyer is duly formed and validly existing under Maryland law and that the individual(s) executing this Agreement on behalf of Buyer is/are authorized and empowered to bind Buyer.

(ii) Buyer has the full right, power and authorization to enter into and perform this Agreement and each of Buyer’s obligations and undertakings under this Agreement, and Buyer’s execution, delivery and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of Maryland law.

(iii) All consents and approvals necessary to the Buyer’s execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

(iv) Buyer will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

(v) Except as previously disclosed in writing to Developer, to Buyer’s knowledge there are no facts, circumstances or other matters that may interfere with or delay the construction and installation of the Facility.

(vi) With respect to certain of Buyer’s existing other utility accounts with LDC identified in Attachment C attached hereto (the “*ANEM Accounts*”), Buyer, to the best of its knowledge after reasonable inquiry, has provided to Developer complete and correct records of its electricity usage and costs with respect to such accounts.

## Section 12. LIMITATIONS

(a) Limitation of Remedies, Liability and Damages. The Parties confirm that the express remedies and measures of damages provided in this Agreement satisfy the essential purposes hereof. For breach of any provision for which an express remedy or measure of damages is provided, such express remedy or measure of damages will be the sole and exclusive remedy, the obligor’s liability will be limited as set forth in such provision and all other remedies or damages available under applicable law. If no remedy or measure of damages is expressly provided herein, the obligor’s liability will be limited to actual direct damages only, and such direct actual damages will be the sole and exclusive remedy and all other remedies or damages available under applicable law. It is agreed by the Parties that the Termination Payment is considered to be direct damages. In no event shall either Party be liable to the other Party for consequential, incidental, punitive,

exemplary or indirect damages, including but not limited to, loss of profits or revenue, downtime costs, loss of use of any property, cost of substitute equipment or facilities, whether arising in tort, contract or otherwise. This Section 12 shall survive termination of this Agreement. For greater clarity, the Parties agree that the Termination Payment does not constitute consequential, incidental, punitive, exemplary or indirect damages.

(b) EXCEPT AS EXPRESSLY DISCUSSED IN SECTION 11, THE ANEM CREDITS PROVIDED TO BUYER WILL BE AS IS, WHERE IS, AND ALL OTHER WARRANTIES, IMPLIED OR EXPRESS, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY DEVELOPER.

### **Section 13. RESERVED**

### **Section 14. INSURANCE**

Attachment F hereto contains the insurance requirements under this Agreement for the Developer incorporated by reference into and made a part of this Agreement.

### **Section 15. INDEMNIFICATION**

To the fullest extent permitted by law, the Developer shall indemnify and hold harmless the Buyer and all of its officers, employees, boards, commissions, and representatives from and against all claims, causes of action, suits, costs, damages, and liability of any kind ("**Losses**") from or to third parties which arise out of the performance of Developer's work, provided that such Losses are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property but only to the extent caused by the negligent or intentional acts or omissions of the Developer, its employees, agents, subcontractors, or anyone directly or indirectly employed by them or anyone for whose acts Developer is legally liable. This indemnity obligation shall apply notwithstanding any negligent or intentional acts, errors or omissions of the Buyer, but the Developer's obligation to pay Losses shall be reduced in proportion to the percentage by which the Buyer's negligent or intentional acts, errors or omissions caused the Losses.

The provisions of this section shall survive the expiration or earlier termination of the Agreement.

### **Section 16. CONFIDENTIALITY**

(a) **Confidentiality.** Neither Party will use any Confidential Information for any purpose except such Party's performance under this Agreement or except where disclosure is required by law. Furthermore, neither Party will disclose any Confidential Information to any third party (other than (and then only for purposes permitted by this Agreement) the Party's or the Party's Affiliates' officers, employees, lenders, counsel, accountants or advisors (collectively, "**Representatives**") who have a need to know such information for the purposes permitted by this section and who have agreed to keep such terms confidential or are otherwise bound by confidentiality obligations at least as restrictive as those contained herein) except in order to comply with the requirements of any applicable Law or any exchange, control area or independent system operator rule, tariff or agreement or in connection with any judicial or regulatory proceeding or request by a Governmental Entity; *provided, however*, that each Party will use reasonable efforts to prevent or limit any such disclosure.

"**Confidential Information**" means any non-public confidential or proprietary information of a Party or its Affiliates or any of its or their Representatives relating to this Agreement and the Facility and revealed to the other Party or its Affiliates or any of its or their Representatives during the Term.

Notwithstanding the foregoing, Developer acknowledges that Buyer is a public entity subject to the Access to Public Records Act, and nothing in this Confidentiality provision shall be deemed to require Buyer to prohibit disclosure of any documents pursuant to the Access to Public Records Act. Developer expressly

acknowledges that all documents provided to Buyer are presumed public records unless it is demonstrated that an exception to the definition of public records applies.

The obligations of the Parties under this Section 16 will survive for a period of two (2) years from and after the termination of this Agreement.

### **Section 17. DISPUTE RESOLUTION**

Disputes regarding changes in and interpretations of the terms or scope of the Agreement and denials of or failures to act upon claims shall be resolved according to the following procedures:

(a) Notice of Dispute/Negotiated Resolution. In the event that there is any controversy, claim or dispute between the Parties hereto arising out of or related to this Agreement, or the breach hereof, that has not been resolved by informal discussions and negotiations, either Party may, by written notice to the other, invoke the formal dispute resolution procedures set forth herein. The written notice invoking these procedures shall set forth in reasonable detail the nature, background and circumstances of the controversy, claim or dispute. During the twenty (20) Business Day period following a party's receipt of said written notice, the Parties shall meet, confer and negotiate in good faith to resolve the dispute.

(b) In the event that any controversy, claim or dispute between the Parties hereto arising out of or related to this Agreement, or the breach hereof, cannot be settled or resolved amicably by the Parties during the twenty (20) Business Day period of good faith negotiations provided for above, then either or any Party hereto may resort to any and all available judicial proceedings in the state and federal courts located within the State of Maryland. Developer expressly consents to the jurisdiction of the state and federal courts located within the State of Maryland.

### **Section 18. NOTICES**

(a) Notices. All notices, requests, statements or payments will be made to the addresses and persons specified below. All notices, requests, statements or payments will be made in writing. Notices required to be in writing will be delivered by hand delivery, overnight delivery. Notice by hand delivery or overnight delivery will be deemed to have been received when delivered. A Party may change its address by providing notice of the same in accordance with the provisions of this section.

If to the Buyer: Anne Arundel County Government  
2660 Riva Road  
Annapolis, MD 21409  
Attention: Don Urgo  
csurgo00@aacounty.org

If to the Developer: Glenn Burnie Landfill Solar LLC  
c/o Ameresco, Inc.  
111 Speen Street, Suite 410  
Framingham, MA 01701  
Attention: Jon Mancini

With a copy to: Ameresco, Inc.  
111 Speen Street, Suite 410  
Framingham, MA 01701  
Attention: General Counsel

(b) Emergency. The Parties shall designate certain individual(s) as their respective points of contact to be available in emergencies (either Party may change the individuals by providing written notice of same in accordance with the provisions of this section).

## **Section 19. ASSIGNMENT; BINDING EFFECT; FINANCING PROVISIONS**

(a) Assignment; Binding Effect. Except as provided in this Agreement, neither Party shall have the right to assign or transfer, whether voluntarily or by operation of law, any of its rights, duties or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Note: This agreement is subject to the ratification of County Council.

(b) Permitted Assignment by Developer. Notwithstanding anything to the contrary herein, Developer may assign all or a portion of its rights and obligations hereunder to (i) to one or more Affiliates of Developer that will be the owner of all or substantially all Project assets, (ii) an Affiliate of Developer in circumstances other than those described in clause (i), (iii) to any person succeeding to all or substantially all of the assets of Developer, (iv) to an entity that acquires the Project or, prior to the construction of the Project, the development rights thereto (each, a "***Permitted Transfer***"). In the event of any such assignment, Developer shall provide advance written notice to Buyer of the existence of such assignment, together with the name and address of the assignee, and documentation establishing that the assignee has assumed (or as of the closing of such transaction will assume) all or a portion of the Developer's rights and obligations under this Agreement. Buyer agrees to promptly execute any document reasonably requested in acknowledgement of such assignment and in consent thereto in accordance with the provisions hereof. If such assignment is a full assignment of all of Developer's rights, and obligations under this Agreement, then Developer shall have no further liability arising under this Agreement after the effective date of the assignment.

Subject to the foregoing restrictions on assignment, this Agreement will inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

(d) Financing Provisions. Notwithstanding any contrary provisions contained in this Agreement, including without limitation Section 19(a) and 19(b), Buyer specifically agrees, without any further request for prior consent but with advance written notice to Buyer, to permit Developer to assign, transfer or pledge its rights under this Agreement and its rights and title to the Facility for the purpose of obtaining financing or refinancing in connection with the Project (including, without limitation, pursuant to a sale-leaseback or partnership flip transaction) and to sign any agreement reasonably requested by Developer or its lenders to acknowledge and evidence such agreement. The Buyer agrees to cooperate with Developer in the negotiation and execution of any reasonable amendment or addition to this Agreement required by the financing parties so long as such amendment or addition does not in any way materially alter or amend the rights and obligations of the Buyer herein.

(e) Third Party Rights.

(1) Notice to Designated Third Party. Buyer agrees to give copies of any notice provided to Developer by Buyer under Section 9 to any assignee or transferee permitted pursuant to Section 19(b) (each, a "Designated Third Party").

(2) Exercise of Developer Rights. Any Designated Third Party, as collateral assignee and if allowed pursuant to its contractual arrangements with Developer, shall have the right in the place of Developer, to any and all rights and remedies of Developer under this Agreement. Such Designated Third Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this Agreement, subject to the terms of this Agreement.



(3) Performance of Developer Obligations. A Designated Third party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Developer hereunder or cause to be cured any default of Developer hereunder in the time and manner provided by and subject to the terms of this Agreement. Nothing herein requires the Designated Third Party to cure any default of Developer under this Agreement or (unless such party has succeeded to the Developer's interests under this Agreement) to perform any act, duty or obligation of Developer under this Agreement, but Buyer hereby gives such party the option to do so, provided any such cure, act, duty or obligation is performed in accordance with the terms of this Agreement.

(4) Exercise of Remedies. Upon the exercise of secured party remedies, including any sale of one or more of the Facility by a Designated Third Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Developer to the Designated Third Party (or any assignee of the Designated Third Party) in lieu thereof, the Designated Third Party shall give notice to Buyer of the transferee or assignee of this Agreement. Any such exercise of secured party remedies shall not constitute a default under this Agreement, unless the act of exercising such remedy itself constitutes an Event of Default provided, however, that the exercise of such remedies shall not itself serve as the cure of any default of Developer, unless cured by the Designated Third Party.

(5) Buyer agrees that each Designated Third Party is a third party beneficiary of the provisions of this Section.

(6) Buyer shall not exercise any rights to terminate or suspend this Agreement unless it shall have given the Designated Third Party a copy of prior written notice of its intent to terminate or suspend this Agreement specifying the condition giving rise to such right, and the Designated Third Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after Developer's cure period expires with respect to payment defaults and one hundred twenty (120) days with respect to all other defaults. The parties' respective obligations will otherwise remain in effect during any cure period.

(7) If pursuant to an exercise of remedies by a Designated Third Party, such party or its assignee shall acquire control of the Facility and this Agreement, and shall within the time periods describe in the preceding paragraph (6) cure all defaults capable of being cured under this Agreement existing as of the date of such change in control in the manner required by this Agreement, then such person or entity shall no longer be in default under this Agreement and this Agreement shall continue in full force and effect.

(f) Buyer agrees to cooperate with Developer and its financing parties in connection with any financing or refinancing of all or a portion of the Facility. In furtherance of the foregoing, as Developer or its financing parties request from time to time, Buyer agrees, subject to the other provisions of this Agreement, to (i) execute any consents to assignment or acknowledgements, (ii) negotiate and deliver such reasonable estoppel certificate as an existing or prospective Designated Third Party may reasonably require, and (iii) furnish such reasonable information as Developer and its financing parties may reasonably request.

## **Section 20. MISCELLANEOUS**

(a) Amendment and Restatement; Contract Drafting. The Parties acknowledge that they jointly participated in the drafting of this Agreement, jointly participated in the choice of language used in this Agreement, and have each reviewed all of the terms of this Agreement.

(b) Waiver. No action or failure to act by either party shall constitute a waiver of a right or duty afforded to the other party under the Agreement, nor shall such action or failure to act constitute approval of or

acquiescence in a breach thereunder, except as may be specifically agreed in writing. No forbearance or indulgence in any form or manner by either party shall be construed as a waiver or in any way limit the legal or equitable remedies available to the other party. No waiver by one party of any default or breach by the Developer shall constitute a waiver of any subsequent default or breach by the other party.

(c) Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof. Any provisions adjudged to be invalid or unenforceable shall be severed from the Agreement and the remaining provisions shall continue in full force and effect to the extent permitted by law. The Parties shall negotiate promptly and in good faith to fashion contractual provisions to be observed in place of any provisions adjudged to be invalid or unenforceable to achieve as nearly as possible the commercial results contemplated by this Agreement.

(d) Headings. The headings of Sections of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such Sections.

(e) Entire Agreement; Amendment. This Agreement and any Exhibits referenced herein shall constitute the entire agreement of the Parties as to the subject matter addressed herein. Except for the Lease which is intended to be a separate agreement from this Agreement, there are no other agreements between the Parties concerning the subject matter of this Agreement. This Agreement and its Exhibits may not be altered, modified, supplemented, terminated or discharged except by way of an instrument in writing executed by both Parties.

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

(g) Governing Law. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Maryland, without resort to any principles of law that would call for the application of the laws of any other jurisdiction. Each of the Parties consents to the jurisdiction of the state or federal courts of the State of Maryland with respect to all disputes arising under or out of this Agreement.

(h) Consent to Service of Process. Each Party hereby consents to service of process in the State of Maryland in respect of actions, suits or proceedings arising out of or in connection with this Agreement or the transactions contemplated by this Agreement.

(i) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. A signature on a copy of this Agreement received by either Party by facsimile transmission is binding upon the other Party as an original.

(j) No Third Party Beneficiaries. Nothing in this Agreement will provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind other than each successor, permitted assignee and any Designated Third Party.

(k) Relationship of Parties. The Parties are independent contractors, and will not be deemed to be partners, joint venturers or agents of each other for any purpose, unless expressly stated otherwise herein. The Developer shall provide services under this Agreement as an independent contractor with the Buyer and not as an employee of the Buyer. No employee, agent or representative of the Developer shall be entitled to receive any benefits of employment with the Buyer, including without limitation salary, overtime, vacation pay, holiday pay, sick leave, health insurance, life insurance, pension or deferred compensation.

(l) Authority to Speak. Neither Party shall represent or purport to represent that it speaks for the other party vis-à-vis the media or the public at-large without the other party's express, written consent in advance.

(m) No Limitation of Regulatory Authority. The Parties acknowledge that nothing in this Agreement shall be deemed to be an agreement by Buyer to issue or cause the issuance of any Approval.

(n) Survival. The provisions of Sections 4(h), 9(c), (d), (e), (f), (g) and (h), 12, 15, 16 shall survive the expiration or earlier termination of this Agreement.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the Parties hereto have executed this AGGREGATE NET ENERGY METERING CREDIT PURCHASE AGREEMENT under seal as of the day and year first above written.

**DEVELOPER:**

**Glenn Burnie Landfill Solar ANEM LLC**

By: Ameresco, Inc., its sole member

By: *Jonathan Mancini*  
[SIGNATURE]

Printed Name: Jonathan Mancini

Printed Title: Sr. Vice President


Witness

Signature \_\_\_\_\_ Date: \_\_\_\_\_


ATTEST:

ANNE ARUNDEL COUNTY, MARYLAND

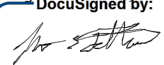
\_\_\_\_\_  
(Witness Signature)

DocuSigned by:  10/19/2021  
By: Matthew Power Date (Seal)  
Title: Chief Administrative Officer

Approved.

DocuSigned by:  10/21/2021  
Purchasing Agent Date

Approved for form and Legal Sufficiency,  
Gregory Swain, County Attorney

DocuSigned by:  10/18/2021  
By: Jason Fetterman, Date  
Senior Assistant County Attorney

Approved.

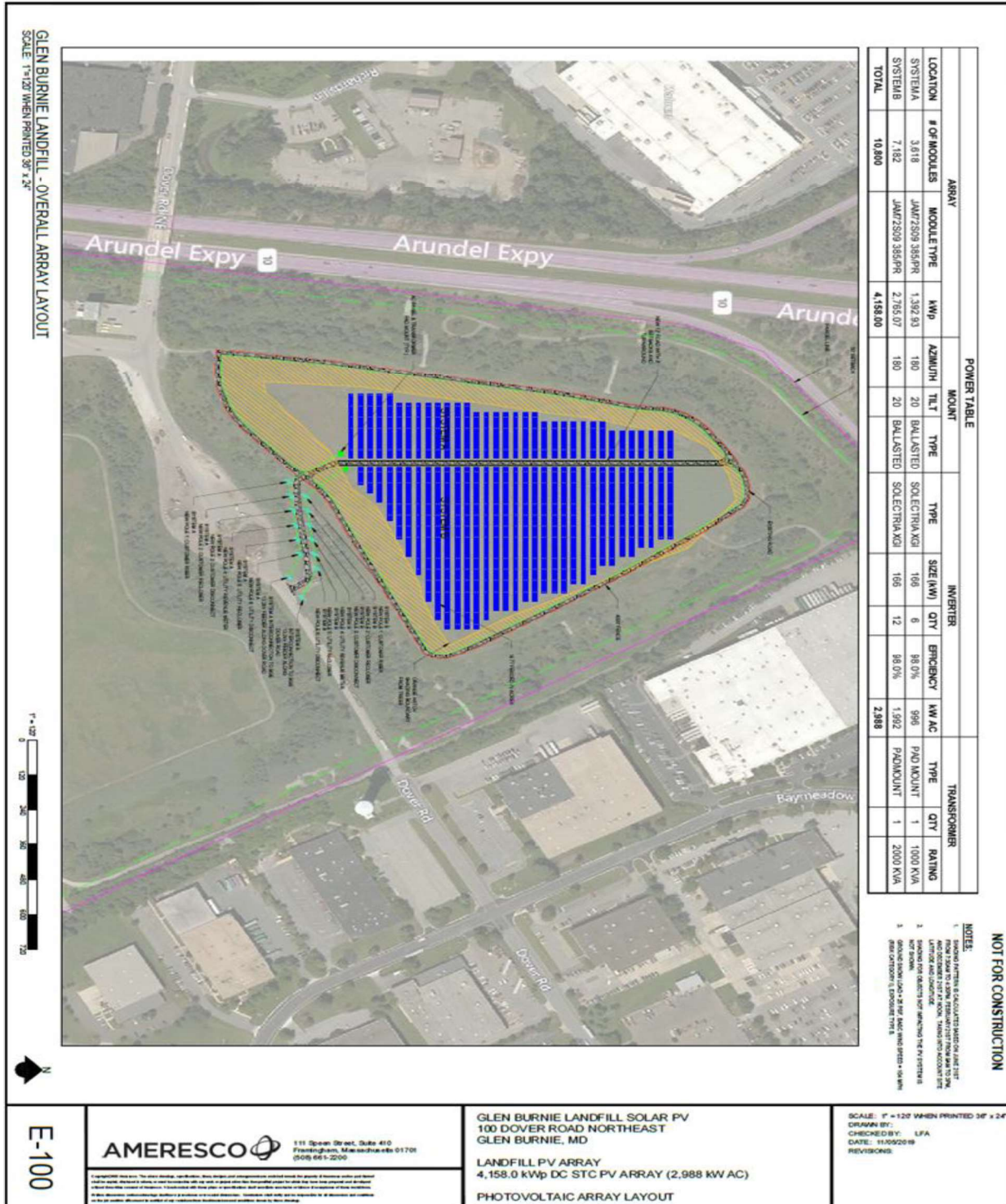
DocuSigned by:  10/18/2021  
Matt Johnston Date  
Environmental Policy Director

## Attachment A

### DESCRIPTION OF PREMISES

Name: Glenn Burnie Landfill Solar

Address: 100 Dover Road





**ATTACHMENT B**

**PRELIMINARY DESCRIPTION OF FACILITIES**

**Name: Glenn Burnie Landfill Solar ANEM Array**

**Address: 100 Dover Road, Glen Burnie, MD**

The final Facility Description shall be the final As-Built drawings to be provided after Commercial Operation Date. The information below is preliminary and subject to change.

**General Facility Description:**

1. Facility Size DC:	2,765 kW_DC at STC capacity
----------------------	-----------------------------

Utility: Baltimore Gas & Electric



## ATTACHMENT C

**ANEM Credit Price:** \$0.0865/kWh; 1.5% annual escalation.

**Buyer Allocation Percentage = 100%**

### **ANEM Account Information**

Upon Developer's request, in order to facilitate Developer's preparation of the initial LDC Schedule, Buyer shall promptly provide Developer with the following information regarding each such account:

- LDC customer name
- Account billing address
- LDC account number
- Annual LDC electricity charges
- Annual kWh usage
- Percentage of Buyer Allocation Percentage to be allocated to such account

Without reducing the Buyer Allocation, Buyer may from time to time request an adjustment in the proportionate percentages of ANEM Credits to be allocated to each individual ANEM Account, and may remove or add individual ANEM Accounts, by providing such written request to Developer. Buyer acknowledges that any such request cannot be inconsistent with its obligations under the Agreement, including without limitation, its obligations under Section 4(e).

Developer shall promptly review such request and coordinate with the ANEM Customer with respect to the filing with the LDC of an amended allocation schedule pursuant to the then-applicable Net Metering Rules. The Parties acknowledge that the timing of the LDC's implementation of such an adjustment to the percentages set forth on allocation schedule shall be in the control of the LDC and Buyer may continue to receive allocations of ANEM Credits under previously agreed percentages until the LDC has implemented the requested amendments. Developer shall use commercially reasonable efforts to facilitate the LDC's implementation of such amendments.

ANEM Account Information [to be provided as amendment]

**ATTACHMENT D**  
**TERMINATION PAYMENT**

Termination Occurs at the end of Year:	Early Termination Fee
1	\$6,858,818
2	\$6,115,869
3	\$5,504,336
4	\$4,963,502
5	\$4,423,501
6	\$3,939,009
7	\$3,796,402
8	\$3,648,847
9	\$3,499,744
10	\$3,347,424
11	\$3,189,424
12	\$3,025,037
13	\$2,853,813
14	\$2,675,284
15	\$2,488,950
16	\$2,294,275
17	\$2,090,686
18	\$1,877,572
19	\$1,654,278
20	\$1,420,104
21	\$1,167,681
22	\$902,365
23	\$623,269
24	\$329,441
25	\$124,935

**Attachment E**

Reserved

## Attachment F

### Insurance Coverage

The Developer shall provide and maintain throughout the Term the following insurance with companies that are authorized and licensed in Maryland to issue policies for the coverages and limits so required.

- i. Workers' Compensation Insurance as required by the laws of Maryland and employer's liability insurance in the amount of \$500,000 by accident, each accident/\$500,000 by disease, each employee/\$500,000 by disease, policy limit.
- ii. Commercial General Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate limit. Commercial General Liability insurance shall include personal injury liability, broad form property damage liability, products/completed operations liability and broad form contractual liability.
- iii. Automobile Liability Insurance - Combined single limit of \$1,000,000.
- iv. Professional Liability Insurance, covering errors and omissions, \$1,000,000 each occurrence and \$2,000,000 aggregate limit.
- v. Excess Liability Insurance, Umbrella Form - \$2,000,000 each occurrence and \$2,000,000 aggregate, which shall be following form, providing coverage over commercial general liability insurance, automobile liability insurance, professional liability insurance, and employer's liability under workers' compensation insurance.
- vi. The Buyer shall be named as an additional insured on each such policy of Commercial General Liability Insurance, Excess Liability Insurance, Umbrella Form, and Automobile Liability Insurance.
- vii. Developer shall provide written notice to Buyer at least thirty (30) days prior to the effective date of any cancellation or material amendment of such policies.
- viii. Certificates evidencing such insurance shall be furnished to Buyer upon execution of this Agreement. Such certificates shall not merely name the types of policy provided, but shall specifically refer to this Agreement and shall state that such insurance is as required by this Agreement.
- ix. Certificates evidencing such insurance shall be furnished to Buyer on the first anniversary of the Commercial Operation Date and each anniversary of the Commercial Operation Date thereafter during the Term (and any extension thereof).

(b) Developer may satisfy the insurance obligations above by ensuring that its subcontractors provide and maintain such insurance coverage.