

Version Date: 5-16-24

POWER PURCHASE AND LICENSE AGREEMENT

THIS POWER PURCHASE AND LICENSE AGREEMENT (this “**PPA**”) is made and entered into as of [] __, 2024 (the “**Effective Date**”), by and between CEFIA Holdings LLC, a Connecticut limited liability company with offices at 75 Charter Oak Avenue, Suite 1-103, Hartford, CT 06106 (“**Seller**”), and Town of Branford, a Connecticut municipality with offices at 1019 Main Street, Branford, CT 06405 (“**Buyer**”). Seller and Buyer are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, Buyer is the fee simple owner of all that certain real property (in such capacity the Buyer may also be referred to as “**Property Owner**”) together with all improvements, buildings, and other structures thereon known as Branford Ecology Park, 100 Tabor Drive, Branford, CT 06405, as more particularly described on Exhibit A attached hereto (the “**Property**”), subject only to the Permitted Encumbrances described in Exhibit B;

WHEREAS, Buyer wishes to participate in the Connecticut Non-Residential Renewable Energy Tariff Program created pursuant to Conn. Gen. Stat. § 16-244z and administered by the Buyer’s Servicing Utility, as such program may be amended, restated, supplemented or otherwise modified (the “**Tariff Program**”);

WHEREAS, Pursuant to the Tariff Program, Buyer was awarded or is eligible to receive a tariff from the Buyer’s Servicing Utility as more particularly described in the Tariff Agreement (if applicable), Tariff Program rules, Tariff Program manual, and the Tariff Program rider (collectively, the “**Tariff Documents**”);

WHEREAS, Seller agrees to finance, own and operate a solar energy facility on a portion of the Property, as more particularly described on Exhibit C attached hereto (the “**Project Site**”), the solar facility will be a ground mount 868 kw DC estimated to generate 1,152,202 kWh in its first year in service (the “**System**”). Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, all of the Energy generated by the System during the Term and otherwise in accordance with the terms of this PPA; and

WHEREAS, Seller desires to obtain, and Buyer desires to provide, an exclusive license for Seller’s access to and use of the Property at reasonable times and upon reasonable notice for the purposes of designing, constructing, installing, inspecting, testing, owning, operating, monitoring, maintaining, repairing, removing and selling of electricity from the System.

AGREEMENT

In consideration of the foregoing recitals, the mutual agreements, representations, warranties and covenants set forth in this PPA and the Schedules and Exhibits hereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

**ARTICLE 1.
DEFINED TERMS; RULES OF INTERPRETATION**

1.1 Defined Terms. Capitalized terms used in this PPA shall have the meanings ascribed to them in the Schedule of Definitions and Rules of Interpretation attached hereto as Exhibit E and made a part of this PPA by this reference, or elsewhere in this PPA.

1.2 Rules of Interpretation. The rules of interpretation in the Schedule of Definitions and Rules of Interpretation shall apply to this PPA unless expressly provided otherwise.

**ARTICLE 2.
TERM & CONDITIONS PRECEDENT**

2.1 Term. If not sooner terminated by either Party in accordance with this agreement, the term of this PPA shall commence on the Effective Date and shall be in effect until the later of either (i) the twentieth (20th) anniversary of the Commercial Operation Date (as defined in the Tariff Documents), or (ii) the expiration or termination of the Tariff Documents (the “*Term*”).

2.2 Conditions Precedent. The respective rights and obligations of the Parties under this PPA (subject to Section 2.4) are conditioned upon the satisfaction in full (or waiver by Seller), no later than the third anniversary of the date of (i) the Effective Date of this PPA, or (ii) the effective date of the Tariff Agreement, if applicable, whichever is later, of the following:

(a) Seller shall have received financing sufficient to enable it to purchase, construct, operate and maintain the System as required by this PPA on terms acceptable to the Seller in its sole discretion;

(b) Seller shall, at its sole cost and expense, assess the condition and suitability of the Project Site, including applicable physical inspections, geotechnical work, roof structural capacity, Project Site infrastructure, and real estate due diligence, to host the System and for such System to function as proposed by Seller. In connection with this assessment, Buyer will provide Seller with the following types of information where available and applicable: (A) Project Site plans; (B) specifications for existing electrical systems and related equipment at each Project Site that may affect and be directly affected by the System; (C) roof assessments completed by the Buyer; and (D) any documentation necessary to corroborate title to the property;

(c) Seller shall have obtained all Governmental Approvals and approvals from Buyer’s Servicing Utility, which approvals shall include conditions and terms satisfactory to Seller in its sole discretion;

(d) Seller and Buyer shall have entered into an Interconnection Agreement with Buyer’s Servicing Utility; and

(e) Buyer shall have entered into all applicable Tariff Documents and designated Seller as a payment beneficiary thereunder, satisfactory to Seller in its sole discretion.

IN THE EVENT THAT THE FOREGOING CONDITIONS SHALL NOT HAVE BEEN MET WITHIN THE TIMEFRAME SET FORTH ABOVE, UNLESS EXTENDED DUE TO DELAYS

BEYOND SELLER'S CONTROL, THEN SELLER SHALL HAVE THE RIGHT TO TERMINATE THIS AGREEMENT IN ITS ENTIRETY UPON TEN (10) DAYS' WRITTEN NOTICE, NOT GIVEN MORE THAN SEVEN (7) DAYS AFTER THE EXPIRATION OF THE TIME PERIOD SET FORTH ABOVE WITHOUT ANY FURTHER FINANCIAL OR OTHER OBLIGATION TO THE EITHER PARTY AS A RESULT OF SUCH TERMINATION.

2.3 Survival. The terms and conditions of this PPA shall survive the termination or expiration of this PPA only (i) to the extent necessary to enforce any rights and obligations of the Parties, including payment obligations and with respect to indemnification; and/or (ii) as otherwise specified herein.

**ARTICLE 3.
TARIFF PROGRAM; PURCHASE AND SALE; DELIVERY; GOVERNMENTAL
CHARGES; INSULATION**

3.1 Tariff Program and Tariff Documents.

(a) Buyer shall work in good faith to assist Seller in submitting any application to Buyer's Servicing Utility under the Tariff Program.

(b) Seller and Buyer hereby agree that during the Term (i) Seller shall receive \$0.1519/kWh and 90.7/100 percent (90.7%) of all compensation and revenues from the Buyer's Servicing Utility associated with the System and Tariff Documents (the "***Seller's Tariff Allocation***"), and (ii) Buyer shall receive the remaining \$0.0156/kWh and 9.3/100 percent (9.3%) of compensation and revenues from the Buyer's Servicing Utility associated with the System and Tariff Documents (the "***Buyer's Tariff Allocation***"). Buyer's Tariff Allocation shall be in the form of monetary credits applied to the designated Buyer utility account(s) and credited to the Buyer pursuant to the Tariff Documents. Buyer shall designate and maintain Seller, or its designee, as payment beneficiary under the Tariff Documents in the amount of the Seller's Tariff Allocation (the "***Beneficiary Designation***").

(c) Buyer shall maintain the Tariff Documents and perform its obligations thereunder for the applicable terms thereof. In the event that Seller made any performance assurance payment to Buyer's Servicing Utility to secure the Tariff Documents, the Buyer shall direct the Buyer's Servicing Utility to return such performance assurance payment to Seller pursuant to the terms of the Tariff Documents.

(d) Buyer shall (i) not take any action, or omission, that would violate the Tariff Program or Tariff Documents, (ii) comply with any requirements of the Tariff Program and Tariff Documents. Nothing contained in this PPA shall be deemed to constitute a guarantee, direct or indirect, by the Seller of any obligation of the Buyer's Servicing Utility arising out of the Tariff Program or Tariff Documents.

3.2 Purchase and Sale of Energy and Environmental Attributes Output. During the Term, Seller shall deliver to Buyer, and Buyer shall take delivery of, at the Delivery Point, all of the Energy and Environmental Attributes in accordance with the terms of this PPA.

3.3 Price for Energy and Environmental Attributes Output. Buyer shall pay Seller for all of the Energy and Environmental Attributes delivered to the Delivery Point, as metered at the Metering Device, and for any Seller's Losses. The payment to be made by Buyer to Seller shall equal the sum of (i) Energy for the relevant period multiplied by the Energy Payment Rate for such period, and (ii) any Seller's Losses, if any, for such period. Notwithstanding anything herein to the contrary, Seller may set off any Seller's Losses or any other sums which the Buyer owes the Seller pursuant to this PPA against Buyer's Tariff Allocation due to Buyer hereunder. Lessee shall notify the Lessor after any such set-off and application is made, together with supporting documentation, and Buyer shall execute a modified Beneficiary Designation increasing Seller's Tariff Allocation to effectuate such set-off.

3.4 Energy & Environmental Attributes Payment Rate.

(a) For the Term of this PPA, the applicable payment rate, in effect at the time of delivery to the Delivery Point of any Energy and Environmental Attributes is the product of Seller's Tariff Allocation and the Tariff Rate, as set forth in Exhibit F attached hereto and made part hereof (the "**Energy Payment Rate**"). Payments received by the Seller from Buyer's Servicing Utility pursuant to the Tariff Documents shall be used to satisfy Buyer's payment obligations hereunder.

(b) Seller shall not make or add any demand, delivery or other incidental charges to the Energy Payment Rate. In all cases, any adjustments in the Energy Payment Rate shall be made to the nearest thousandth (.001) of a cent.

3.5 Title and Risk of Loss of Energy Output. Title to and risk of loss of the Energy will pass from Seller to Buyer at the Delivery Point. As between the Parties, Seller shall be deemed to be in exclusive control of all Energy prior to the Delivery Point, and Buyer shall be deemed to be in exclusive control of all Energy at and from the Delivery Point. Except as otherwise provided herein, Seller warrants that it will deliver the Energy to Buyer at the Delivery Point, free and clear of all liens, security interests, claims, and other encumbrances created by Seller.

3.6 Adjustment to Energy & Environmental Attributes Payment Rate. In the event of changes due to 1) conditions or proposed requirements that are unanticipated at the time of execution of this PPA and which are identified during due diligence, 2) design review by the Seller or its consultants, or material differing or unforeseen conditions at a Project Site, or 3) any change in one or more Environmental Attributes, or 4) a change in Law during the Term that is applicable to a System or the obligations of Seller hereunder that must be complied with, and such compliance results in a material change in Seller's costs (hereinafter "**Sales Price Modification Factors**"), Seller may seek an adjustment to the Energy Payment Rate or other terms of this PPA by submitting to the Buyer a written notice setting forth: (i) the citation and description of reasonably unanticipated applicable change(s) due to one or more of the Sales Price Modification Factors, delineating which factor(s) apply; (ii) the manner in which such change has or will materially change Seller costs; and (iii) Seller's proposed adjustment to the Energy Payment Rate or other terms of this PPA. The Parties shall cooperate and use commercial best efforts in attempting to reach a mutual agreement on amending this PPA in accordance with Seller's notice. If, after commercial best efforts, the Parties mutually agree on an amendment of this PPA, then the Parties will amend or restate this PPA pursuant to the terms hereof. If, after commercial best

efforts, the Parties cannot mutually agree on an amendment, then this PPA shall remain in full force and effect and Seller shall have the option to terminate this PPA in its sole discretion.

3.7 Governmental Charges.

(a) Except as set forth in subsection (b) below, Seller is responsible for paying all local, state and federal income taxes attributable to Seller for income resulting from sales of Energy to Buyer under this PPA.

(b) Buyer is responsible for paying, all sales & use taxes (“*SUT*”) assessed against Buyer due to Buyer’s purchase of Energy, and all real and personal property taxes assessed against the System (“Property Taxes”). Such SUT and Property Taxes shall also be reimbursed to Seller by Buyer, should Seller, not Buyer, be assessed such SUT or Property Taxes.

(c) The Parties shall use reasonable efforts to administer this PPA and implement its provisions so as to minimize Governmental Charges. In the event any of the sales of Energy 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 therefor, provide the applicable Party with all necessary documentation to evidence such exemption or exclusion.

3.8 Insolation. Buyer understands that unobstructed access to sunlight (“*Insolation*”) is essential to Seller’s performance of its obligations and a material term of this PPA. Buyer shall not in any way cause and, where possible, shall not in any way permit any interference with the System’s Insolation. If Buyer becomes aware of any activity or condition that could diminish the Insolation of the System, Buyer shall notify Seller immediately and shall cooperate with Seller in preserving the System’s existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 3.9 against Buyer.

3.9 Maintenance of Property; Alterations to Property.

(a) Buyer shall, at its sole cost and expense, maintain the Property in good condition and repair. Buyer will ensure that the Property remains interconnected to Buyer’s Servicing Utility all times and will not permit cessation of electric service to the Property from Buyer’s Servicing Utility. Buyer is fully responsible for the maintenance and repair of the Property’s electrical system and of all of Buyer’s equipment that utilizes the System’s outputs. Buyer shall properly maintain in full working order all of Buyer’s electric supply or generation equipment that Buyer may shut down while utilizing the System. Buyer shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System. Buyer shall not make any alterations or repairs to the Property which may adversely affect the operation, monitoring and/or maintenance of the System without Seller’s prior written consent. If Buyer wishes to make such alterations or repairs, Buyer shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Buyer in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Buyer shall be responsible for all

damage to the System caused by Buyer, its representatives or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, such work and any replacement of the System after completion of Buyer's alterations and repairs shall be done by Seller or its contractors at Buyer's cost. All of Buyer's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

(b) In the event that the System is ground-mounted and Seller installs a fence on the Project Site, Seller shall be responsible for maintenance and repair any such fence and regular mowing of the fenced area within the Project Site, which mowing shall be completed no less than two times each year during the term of this PPA.

3.10 System Output. Customer acknowledges and agrees that: (i) the expected System output is an estimate and may be adjusted by Seller based on final System design or any other reason, (ii) the Energy output from the System will vary from time to time; (iii) Seller is not providing any warranty or guarantee of any particular level of Energy output of the System; (iv) Buyer is solely responsible, at its cost and expense, for paying any and all Buyer's Servicing Utility costs associated with utility service at the Property; and (iv) Seller is not a utility or an electricity provider and does not assume any regulatory or statutory obligations of a utility or electricity provider.

3.11 Tariff Documents Control. Notwithstanding any provision in this PPA or in the Tariff Documents to the contrary, Buyer shall not amend, modify, cancel or surrender the Tariff Documents, nor shall Buyer take any action under the Tariff Documents (each being a "**Tariff Action**"), including but not limited to amending or modifying the Beneficiary Designation, making any changes to the Customer of Record (as defined in the Tariff Documents) or any amendment to the Tariff Documents without the prior written consent of Seller, which consent may be granted or withheld in the absolute and sole discretion of Seller. Any Tariff Action taken by Buyer in contravention of this Section shall be null, void, ineffective, and shall not be recognized by the Buyer's Servicing Utility.

3.12 Violation of Tariff Documents. If a Tariff Action is made in violation of any term of this PPA or if the Buyer fails to take or effectuate any Tariff Action required of Buyer by the provisions of this PPA or the Tariff Documents, within ten days after receiving notice from Seller, or fails to deliver notice of such Tariff Action to the Buyer's Servicing Utility if required to be delivered by Buyer, within ten days after receiving notice from Seller, in accordance with the terms of this PPA or Tariff Documents, Seller may, at its option, in addition to all other remedies it may have, exercise the limited power of attorney granted pursuant to this PPA. Any Financing Party, as an intended third-party beneficiary of this PPA, shall have the right, power and authority to enforce the provisions of this PPA as though such Financing Party were a party to this PPA.

3.13 Limited Power of Attorney. To allow Seller to assure compliance with this PPA, Buyer hereby grants to Seller the Buyer's irrevocable power of attorney coupled with an interest, with full power of substitution and resubstitution, to execute, take, and deliver to the Buyer's

Servicing Utility on behalf of Buyer any Tariff Action that the Seller deems to be necessary or desirable to effectuate Seller's rights under this PPA. So long as this PPA remains in effect, said power of attorney shall include but shall not be limited to the power to amend the Tariff Documents in the name of Buyer, to execute any other incidental agreement or document in the name of and on behalf of Buyer, and to take such other action to enforce any of Buyer's right and obligation with respect to the Tariff Documents. Seller shall have, while this PPA remains in effect, the sole right and control with regard to the Tariff Documents. Buyer shall take all actions and execute all documents as Seller may reasonably request to effectuate any action Seller may take on behalf of Buyer in accordance with the terms of this Section. Seller shall provide prompt notice to Seller of any actions taken or copies of any documents executed pursuant to this Section.

ARTICLE 4.
ENVIRONMENTAL ATTRIBUTES AND TAX BENEFITS

4.1 Transfer of Environmental Attributes and Capacity Attributes. Seller shall transfer to Buyer, and Buyer shall receive from Seller, all rights and interest in and to any Environmental Attributes and Capacity Attributes associated with the System, whether now existing or subsequently generated or acquired (other than by direct purchase from a third party) by Seller, or that hereafter come into existence, during the Term, as a component of the Energy purchased by Buyer from Seller hereunder. Seller agrees to transfer and make such Environmental Attributes and Capacity Attributes available to Buyer immediately to the fullest extent allowed by applicable law upon Seller's production or acquisition of such Environmental Attributes or Capacity Attributes. Seller agrees that Seller's Tariff Allocation is the full compensation for all Environmental Attributes and Capacity Attributes. Buyer shall sell all such Environmental Attributes and Capacity Attributes to Buyer's Servicing Utility pursuant to the Tariff Documents and shall assign the revenues received thereunder pursuant to the terms of this PPA.

4.2 Title to System and Tax Benefits. Tax Benefits will be and shall remain property of Seller. Seller shall be the sole owner and title holder of the System at all times during the Term, which System shall (i) at all times retain the legal status of personal property of Seller as defined under Article 9 of the Uniform Commercial Code and (ii) not attach to or be deemed a part of, or fixture to, the Property. Without limiting the generality of the foregoing, Seller may file one or more precautionary financing statements, including fixture filings in such jurisdictions as it deems appropriate with respect to the System to protect Seller's rights therein. Buyer shall take no position on any tax return or other filings suggesting that it is anything other than a purchaser of electricity from the System. In this regard, the Parties intend this PPA to be treated as a "service contract" within the meaning of section 7701(e)(3) of the Internal Revenue Code.

4.3 Further Assurances. Promptly upon Seller's request and provided Seller is not in default hereunder, Buyer shall execute all such documents and instruments (including, but not limited to, assignments, consents and acknowledgments) reasonably necessary or desirable to (i) effect, evidence or transfer to Seller all right, title and interest in Tax Benefits, or (ii) effect, participate, or enroll the System, Environmental Attributes, Capacity Attributes, or the utility account for the Meter, in any program administered by Buyer's Servicing Utility, Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity.

4.4 Promotion, Branding and Signage. Nothing in this PPA is intended to preclude Buyer or Seller from advertising or distributing promotional material highlighting the purchase and use of renewable energy from the System for commercial or branding purposes, provided that neither Party shall be permitted to release to the public any such material regarding the System or the use of renewable energy therefrom without the prior review and approval of the other Party, which approval shall not be unreasonably withheld, conditioned or delayed. Seller may, at its sole cost and expense, place a sign or signs (subject to Buyer's approval, which approval shall not be unreasonably withheld, conditioned or delayed) at a location or locations on the Property reasonably satisfactory to the Parties, which signs shall recite, among other things, the ownership and financing of the System. Notwithstanding the foregoing, neither Party will use the other Party's (or any Financing Party's) corporate name, logo or other identification in any marketing, promotion, branding or other written, spoken or electronic communications without the express written permission of the other Party.

ARTICLE 5.

LICENSE, CONSTRUCTION, MAINTENANCE AND MONITORING

5.1 License, Construction, Maintenance, and Monitoring of System by Seller.

(a) Seller shall, at its sole cost and expense, (i) construct the System and achieve Commercial Operation in a good and workmanlike manner and in accordance with all Laws and Prudent Utility Practices in all material respects, (ii) maintain the System in good condition (including any necessary cleaning of solar panels) and repair in accordance with Prudent Utility Practices and the terms of this PPA and all Laws in all material respects, and (iii) monitor the System's performance to ensure that any System malfunction causing a loss of Energy will be discovered and rectified in accordance with Prudent Utility Practices in all material respects. Buyer hereby consents to the construction of the System's connection to the Property, including, without limitation, mounting substrates or supports, wiring and connections, power inverters, service equipment, Metering Devices and equipment and utility interconnections, and, in the case of metering equipment and utility interconnections, on the Project Site and surrounding property outside of Project Site so long as Seller does not unreasonably interfere with Buyer's ability to conduct its business or utilize the Property. Seller shall have the right to take reasonable action to restrict the right of persons to obtain access to the Project Site and Buyer will cooperate with Seller in connection with these actions.

(b) Buyer grants to Seller and to Seller's agents, employees and contractors an irrevocable non-exclusive license running with the Property (the "*License*") for access to, on, over, under and across the Property for the purposes of (i) designing, installing, inspecting, testing, constructing, operating, owning, maintaining, accessing, repairing, removing, replacing and selling the electricity from the System; (ii) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this PPA; and (iii) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the System to Buyer's electric system at the Property and/or to the utility's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Seller shall notify Buyer prior to entering the Property except in situations where there is imminent risk of damage to persons or property or Emergency Repairs are otherwise required. The term of the License shall continue until the date

that is one hundred and twenty (120) days following the date of expiration or Termination Date of this PPA (the “**License Term**”). During the License Term, Buyer shall ensure that Seller’s rights under the License and Seller’s access to the Property are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access. The grant of the License shall survive termination of this agreement by either Party. Buyer agrees that Seller, upon request to Buyer, may record a memorandum of license in the land records respecting the License in form and substance reasonably acceptable to the Buyer.

(c) The site plan attached to this PPA as of the Effective Date is the Parties’ initial approximation of the preliminary site plan for the System (the “Site Plan”). In the event that during design or construction of the System Seller determines that the site plan needs to be materially changed, then Seller may propose amendments to the site plan description for Buyer’s review and approval or denial, which approval shall not be unreasonably denied or delayed. Once Buyer grants written approval of any such amendment of the description of the site plan, such description shall be incorporated into this PPA, and supersede any previous version thereof. Notwithstanding the forgoing, (i) Seller may make non material changes to Site Plan without notice to or consent of Buyer, which Seller considers necessary for the design, construction, operation or maintenance of the System, and (ii) after Seller completes construction of the System, Seller shall provide Buyer with a revised description of the site plan which shall include “as-built” description and drawings of the System, such revised description of the Property shall be incorporated into this PPA, and supersede any previous version thereof, upon notice to Buyer.

(d) Seller shall provide Buyer reasonable notice of all activities conducted by or on behalf of Seller on the Property. During any such activities, Seller, and its sub-contractors, agents, consultants, and representatives shall comply with Buyer’s safety, insurance and security procedures (as may reasonably be promulgated from time to time), and Seller and its sub-contractors, agents, consultants and representatives shall conduct such activities in such a manner and such a time and day as to not unreasonably interfere with Buyer’s activities. This requirement of access shall not be construed to confer a leasehold on the Seller.

(e) Seller’s access rights with respect to the Property include: (i) reasonable vehicular and pedestrian access across the Property, provided Seller shall reasonably attempt to minimize any disruption to activities occurring on the Project Site; (ii) the right to locate transmission lines and communications cables across the Property as depicted in the Site Plan; (iii) access and use of a lay-down and staging area at the Project Site, whose needs will be specified by Seller and directed by the Buyer, for materials and tools used during construction, installation, and maintenance of the System, provided Seller shall be responsible for providing shelter and security for items staged in the lay-down and staging area; and (iv) the right to connect, at Seller’s sole cost and expense, to existing water, sewage, drainage, electrical, and communication lines on the Property, subject to availability and Buyer’s approval, for use by Seller in installing, operating and maintaining the System, provided Seller shall be required to reimburse the Buyer at current Utility rates for all utilities used. The Parties agree that this grant of access is a material term to the PPA.

(f) Notwithstanding any provision of Section 5.1(b) or 5.1(c) to the contrary, Seller shall have access to the Property to effect Emergency Repairs of the Interconnection Equipment located on the Property immediately upon, or as soon as practicable after, notice to Buyer of the need for access.

(g) Seller may curtail deliveries (inclusive of discontinuing or reducing Energy) if Seller reasonably believes that curtailment is necessary to construct, install, repair, replace, remove, maintain or inspect any of its equipment or facilities; or in connection with an emergency or an event of Force Majeure. To the extent practical, all maintenance and repairs shall be performed during off-peak hours and in a manner that would not require a complete interruption in Energy of the System. Seller shall notify Buyer of any curtailments of which Seller has advance knowledge and will endeavor to mitigate the time periods and causes of such curtailments to the extent that such cause is within Seller's reasonable control. Subject to available sunlight, Seller shall resume deliveries of Energy as soon as is reasonably possible and safe in accordance with Prudent Utility Practices.

(h) Seller may modify, alter, expand or otherwise change the System without the prior written consent of Buyer as required by Prudent Utility Practices or applicable Law, so long as such modifications, alterations, expansions or other changes would not reasonably be expected to have material adverse impact on the operations of the System or the System's capability to operate.

(i) Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Material on or about the Property generally or any deposit, spill or release of any Hazardous Material.

5.2 Buyer's Obligations.

(a) Buyer shall maintain the Property and shall not take any actions on the Property that would cause shading of the System or otherwise interfere with the operation of the System, reduce the production of Energy from the System or damage or otherwise increase the cost of maintenance of the System.

(b) Buyer shall provide or assist Seller and its agents and contractors in obtaining convenient access to and from the Interconnection Equipment located on the Property during normal business hours as is reasonably necessary or appropriate for Seller to complete the electrical interconnection to the Property.

(c) Buyer shall assist Seller and cooperate with Seller, as reasonably necessary and appropriate, to acquire and maintain the Governmental Approvals required for the construction, operation, maintenance and repair of the System's connection to the Property, including, but not limited to, the Interconnection Agreement (and all of Buyer's obligations thereunder) or any applications or consents for permits, local utility interconnection, solar renewable energy certificate creation and verification, and rebate applications as are required to be signed by a person in the position of Buyer and reasonably approved by Buyer's counsel.

(d) Buyer shall maintain the Site Electrical System in good condition and repair so as to be able to receive the Energy. Buyer will maintain its connection and service contract(s) with Buyer's Servicing Utility or any successors thereto, so that the System may continuously generate and deliver Energy and so that Buyer may procure its full requirements for electricity that are not served by the System.

(e) Buyer shall not cause or allow any Person under Buyer's control to cause the System's equipment on the Property to be disconnected or shut down, temporarily or otherwise, unless in the case of emergency or as a result of an event of Force Majeure. In the event of a disconnect or shut down on the Property of a portion of the System caused by Buyer or a Person under Buyer's control, damages and lost revenue will be assessed pursuant to the terms of Section 7.5, which is the sole measure of damages. At the request of Buyer, Seller may consent, such consent not to be unreasonably withheld, conditioned or delayed, to temporarily shut down all or a portion of the System for a predetermined period of time; provided that nothing herein shall require Seller's consent to a shutdown of the System, if necessary, as a result of an emergency. Seller will be compensated in connection with any such shutdown in accordance with Section 7.5. No damages will be due if the shutdown is due to a Force Majeure event.

(f) Buyer shall provide Seller sufficient space on the Property for the temporary storage and staging of tools, materials and equipment reasonably necessary during installation and any maintenance, repair, replacement or removal of the System, provided that Seller shall use commercially reasonable efforts to minimize disruption to Buyer's operations, and provided further that Seller understands and acknowledges that space is limited at on the Property. Buyer and Seller shall coordinate and cooperate in determining the amount of space and specific portion of on the Property necessary available for such purposes.

(g) Notwithstanding anything herein to the contrary, Buyer shall perform all obligations of the Property Owner (as defined in the Tariff Documents) and Customer of Record (as defined in the Tariff Documents), except such obligations identified as Seller's obligations pursuant to this PPA, set forth in the Tariff Documents.

5.3 Telemetry. Seller shall provide a means for Buyer to access real-time data or telemetry with respect to the System's performance through means that may reasonably be incorporated into advertising and promotional materials. Subject to Section 4.3 above, Seller retains the right to use telemetry and monitoring other data concerning the performance of the System for evaluative, maintenance, and promotional purposes.

ARTICLE 6. METERING DEVICE AND METERING

6.1 Metering Equipment. Seller shall provide, install, own, operate and maintain the Metering Device with the ability and right for Buyer to access real-time via internet connection to monitor the Metering Device. Buyer shall provide Seller with high-speed internet access at the Property during the entire Term. Buyer grants Seller a right of access to the Metering Device on the Property as needed to inspect, repair and maintain such Metering Device. Buyer shall allow for the installation of necessary communication lines in connection with the Metering Device and shall reasonably cooperate in providing access for such installation. The Metering Device shall be kept under seal, such seal to be broken only by Seller when the Metering Device is to be tested, adjusted, modified or relocated. In the event that Seller or Buyer breaks a seal, the applicable Party shall notify the other as soon as practicable.

6.2 Measurements. Readings of the Metering Device shall be conclusive as to the amount of Energy output; *provided, however*, that if the Metering Device is out of service, is

discovered to be inaccurate pursuant to Section 6.4, or registers inaccurately, measurement of Energy to the Delivery Point shall be determined in the following sequence: (a) by estimating by reference to quantities measured during periods of similar conditions when Metering Device was registering accurately; or (b) if no reliable information exists as to the period of time during which such Metering Device was registering inaccurately, it shall be assumed for correction purposes hereunder that the period of such inaccuracy for the purposes of the correction under Section 6.4 was equal to (i) if the period of inaccuracy can be determined, the actual period during which inaccurate measurements were made; or (ii) if the period of inaccuracy cannot be determined, one-half of the period from the date of the last previous test of such Metering Device through the date of the adjustments; *provided, however*, that, in the case of clause (ii), the period covered by the correction under Section 6.4 shall not exceed twelve (12) months.

6.3 Meter Seals. Seller's metering equipment shall be sealed, and the seals shall be broken only upon occasions when the meters are to be inspected, tested or adjusted by Seller. Seller shall be the only Party authorized to cause seals to be broken on such meters. The Buyer shall be offered the opportunity to be present upon any occasion when the seals for such meters are to be broken.

6.4 Testing and Correction.

(a) Upon Buyer's reasonable request, but in no event more than once every twelve (12) months, Seller shall inspect and test the Metering Device for accuracy. Each Party and its consultants and Representatives shall have the right to witness each test of the Metering Device to verify the accuracy of its measurements and recordings. Seller shall provide at least ten (10) days prior written notice to Buyer of the date upon which any such test is to occur. Seller shall prepare a written report setting forth the results of each such test and shall provide Buyer with copies of such written report not later than thirty (30) days after completion of such test. Subject to Section 6.4(b) below, Seller shall bear the cost of the testing of the Metering Device and the preparation of the Metering Device test reports.

(b) The following steps shall be taken to resolve any disputes regarding the accuracy of the Metering Device:

- (i) If either Party disputes the accuracy or condition of the Metering Device, such Party shall so advise the other Party in writing.
- (ii) Seller shall, within thirty (30) days after receiving such notice from Buyer or Buyer shall, within such time after having received such notice from Seller, advise the other Party in writing as to its position concerning the accuracy of such Metering Device and state reasons for taking such position.
- (iii) If the Parties are unable to resolve the dispute through reasonable negotiations, then either Party may cause the Third Party Monitor to test the Meter.
- (iv) If the Metering Device is found to be inaccurate by not more than five percent (5%), any previous recordings of the Metering Device shall

be adjusted in accordance with Section 6.2(b)(i) and the party claiming such inaccuracy shall bear the cost of inspection and testing of the Metering Device.

- (v) If the Metering Device is found to be inaccurate by more than five percent (5%) or if such Metering Device is for any reason out of service or fails to register, then (A) Seller shall promptly cause any Metering Device found to be inaccurate to be adjusted to correct, to the extent practicable, such inaccuracy, (B) the Parties shall estimate the correct amounts of Energy delivered during the periods affected by such inaccuracy, service outage or failure to register as provided in Section 6.2, and (C) Seller shall bear the cost of inspection and testing of the Metering Device. If as a result of such adjustment the quantity of Energy output for any period is decreased, Seller shall reimburse Buyer within thirty (30) days for the amount paid by Buyer in consideration for the decrease. If as a result of such adjustment the quantity of Energy output for any period is increased, Buyer shall pay Seller within thirty (30) days for the additional quantity of Energy at the Energy Payment Rate applicable during the applicable period. In no event shall the period of inaccuracy used to calculate Seller's reimbursement obligation be longer than 365 days.

6.5 Live Meter Maintenance. Buyer acknowledges and understands that the System and Tariff Agreement (if applicable) will be associated with a particular electric utility meter (currently existing or to be installed) located on the Property (the "**Meter**") and that the Meter remaining live is critical to the proper operation of the System. Buyer acknowledges and understands that the Meter may need to be moved to a different location on the Property, if required to do so by the Buyer's Servicing Utility. Therefore, Buyer agrees that, in the event Buyer defaults in an obligation to Buyer's Servicing Utility, becomes insolvent, Bankrupt, or enters into any condition that threatens the live nature of the Meter, Seller shall have the unilateral and exclusive right to transfer the account for the Meter into Seller's name for the duration of the Term.

ARTICLE 7.

LOSS, DAMAGE OR DESTRUCTION OF SYSTEM; INSURANCE; FORCE MAJEURE; PAYMENTS FOR TEMPORARY SHUT DOWN

7.1 System Loss.

(a) Seller shall bear the risk of any System Loss excluding, however, any System Loss arising out of or resulting from (i) any acts or omissions of Buyer or Buyer's agents, Representatives, customers, vendors, visitors, or invitees or (ii) any breach of the PPA by Buyer (collectively, the circumstances set forth in clause (i) or (ii), "**Buyer Act**") or (iii) any act, omission or event which is covered by Buyer's insurance required hereunder.

(b) In the event of any System Loss that, in the reasonable judgment of Seller, results in less than total damage, destruction or loss of the System and more than five (5) years remains in the Term, this PPA will remain in full force and effect and Seller will, at Seller's sole

cost and expense, subject to Section 7.1(c) below, repair or replace the System as quickly as practicable.

(c) To the extent that any System Loss, which in the reasonable judgment of Seller, results in less than total damage or destruction or loss of the System, is caused by Buyer Act, Buyer shall promptly upon demand therefor from Seller pay any and all costs and expenses of such repair or replacement.

(d) In the event of any System Loss that, in the reasonable judgment of Seller, results in total damage, destruction or loss of the System, or to the extent the System is damaged during the last five (5) years of the Term, Seller shall, within thirty (30) Business Days following written notice from the Buyer of the occurrence of such System Loss, notify Buyer whether Seller is willing, notwithstanding such System Loss, to repair or replace the System, it being understood that in such instance Seller shall have no obligation to restore the System.

(e) In the event that Seller notifies Buyer that Seller is not willing to repair or replace the System, this PPA will terminate automatically effective upon the date specified in such notice unless Buyer agrees to pay the restoration cost. If such System Loss has been caused solely by Buyer Act, Buyer shall, within ten (10) Business Days following such termination, pay to Seller, as liquidated damages, the Termination Payment applicable as of such Termination Date.

(f) In the event that Seller notifies Buyer that Seller is willing to repair or replace the System, the following shall occur: (A) this PPA will remain in full force and effect, and (B) Seller will repair or replace the System as quickly as practicable but in any event within six (6) months of the casualty and, in addition, if such System Loss has been caused, in total or partially, by Buyer Act, Buyer shall promptly upon demand therefor from Seller pay any and all costs and expenses of such repair or replacement caused by such Buyer Act, as well as Seller's Losses.

7.2 Insurance.

(a) Each Party will, at its own cost and expense, maintain commercial general liability insurance with limits not less than \$3,000,000 for injury to or death of one or more persons in any one occurrence and \$1,000,000 for damage or destruction to property in any one occurrence, with aggregate limits of \$5,000,000. Coverage may be part of a blanket and/or umbrella policy.

(b) Buyer and Seller (and Seller's subcontractors), will maintain worker's compensation and employer's liability insurance, including stop gap coverage, in compliance with applicable laws. The limits of employers' liability insurance shall not be less than \$1,000,000.

(c) Buyer shall maintain property insurance on the Property, written on an "all risk" or broad special perils form, in an amount equal to the full current replacement value of the Property, on an agreed value (no coinsurance) basis, and with a deductible not to exceed \$10,000. Such coverage may be written as part of a blanket property policy, but if written as part of a blanket policy Buyer must provide evidence that the policy does not include a margin clause, or, if there is a margin clause, that the value declared is equal to the full current replacement value of the Property. Seller must be named as loss payee on the policy with ISO form CP 12 18 10 12 Loss Payable Provisions, Clause C2, or equivalent acceptable to Seller, and the policy must provide for

ten (10) days' prior written notice to Seller in the event of cancellation or nonrenewal and must meet State insurance requirements. Property located in a designated flood zone must be insured for the peril of flood to the maximum limits available through the National Flood Insurance Program.

(d) Each Party will name the other Party as an additional insured in each such policy provided in this Section 7.2 using the form CG 2010 or the equivalent, excepting Buyer property insurance as described in Section 7.2(c). The policies insuring a Party against loss or destruction to property shall waive any right of subrogation against the other Party. As to each such policy, the insured Party shall furnish to the other Party a certificate of insurance from the insurer, which certificate shall evidence the insurance coverage required by this Section 7.2. At the request of a Party, the other Party shall furnish to such Party applicable endorsements evidencing the required coverages.

(e) The provision of this PPA shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible insurance policies.

(f) Seller shall be permitted to satisfy the insurance requirements in this Section 7.2 with any combination of general liability and umbrella policies or self-insured retentions.

7.3 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 PPA and such Party (the "**Claiming Party**") gives notice and details of the Force Majeure event to the other Party as soon as practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, then the Claiming Party will be excused from the performance of its obligations under this PPA affected by the Force Majeure event (other than the obligation to make payments under this PPA) for a period equal to the effect of the disabling Force Majeure circumstances. 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.

7.4 Termination due to Force Majeure. If a Claiming Party claims a Force Majeure for a consecutive period of twelve (12) calendar months or longer, the non-Claiming Party may terminate this PPA, in whole or in part, without any liability to the Claiming Party as a result of such termination (except with respect to payment of amounts accrued prior to termination and actions or omissions that occur prior to termination) by providing written notice of such termination at any time prior to the date upon which the obligation prevented by such Force Majeure has been satisfied. Without limiting the generality of the foregoing, if Seller does not deliver Energy from the System to Buyer for a continuous period of twelve (12) months for any reason other than Buyer's default hereunder, Buyer shall have the right to terminate this PPA by delivering written notice of such termination at any time prior to the date upon which the System resumes the production of Energy.

7.5 Payment for Temporary Shutdown of System or Reduced Energy Output. In the event (a) Buyer needs to conduct any type of work on the Property or Site Electrical System

that will require the shutdown of the System, (b) Buyer or any Person within Buyer's control causes any disruption on the Property which will require, or otherwise causes, Seller to cease making deliveries of Energy, or otherwise causes the System to shut down, or (c) Buyer or any Person in Buyer's control causes a reduction in Energy output from the System, whether from disruption on the Property or otherwise, Buyer shall compensate Seller for Seller's Losses (as defined below) arising out of such shutdown or reduction in Energy output and Buyer's payments due hereunder shall be adjusted to account for Seller's Losses.

**ARTICLE 8.
EVENTS OF DEFAULT; REMEDIES**

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

(a) the failure to make, when due, any payment required under this PPA if such failure is not remedied within ten (10) Business Days after receipt of written notice from the Party claiming the failure (a "*Non-Defaulting Party*");

(b) any representation or warranty made by such Party in this PPA is intentionally false or misleading in any material respect when made or when deemed made or repeated;

(c) the failure to perform any material covenant or obligation set forth in this PPA if such failure is not remedied within thirty (30) days after receipt of written notice from the Non-Defaulting Party; provided, however, that, if despite diligent efforts to cure such default is not capable of cure within thirty (30) days, the Defaulting Party shall have such additional time as is reasonably necessary to cure such default, provided the Defaulting Party diligently pursues such cure and completes same within ninety (90) days after the receipt of such notice;

(d) such Party becomes Bankrupt; or

(e) solely as to Buyer, (i) the closure or shutdown of Buyer's operations or other shutdown of the System caused by the action or inaction of Buyer or of any Person under Buyer's control; (ii) Buyer loses its rights to occupy and enjoy the Property; or (iii) Buyer prevents Seller from installing the System or otherwise fails to perform in a way that prevents the delivery of electronic energy from the System.

8.2 Buyer Remedies. Upon the occurrence and during the continuance of an Event of Default where Seller is the Defaulting Party (a "*Seller Event of Default*"), Buyer shall have all rights available to it at law and in equity; however, notwithstanding the foregoing, it is agreed that Buyer shall have the right to terminate this PPA as a result of a Seller Event of Default only in the event such Seller Event of Default is a monetary Event of Default or a material non-monetary Event of Default that has resulted in substantial harm, economically or otherwise, to Buyer (each such default being a "*Seller Termination Default*"). In the event any Seller Termination Default remains uncured following any applicable notice and cure period, Buyer shall have the right to provide Seller with written notice of its intent to terminate this PPA. In the event such specified Seller Termination Default and any other subsequent termination event is not cured within forty five (45) days of Seller's receipt of such notice of intent to terminate (which notice shall specify

the exact Seller Termination Default and any other Seller Event of Default being claimed) then thereafter, and only thereafter, Buyer shall have the right to terminate this PPA as of such date by providing written notice of such termination to Seller.

8.3 Seller Remedies.

(a) If an Event of Default has occurred where Buyer is the Defaulting Party (a “*Buyer Event of Default*”) and is continuing, Seller has the right in its sole discretion, without obligation, to take any and all action reasonably necessary to cure such Buyer Event of Default. In the event that Seller exercises such right, Buyer shall promptly reimburse Seller for any and all reasonable costs and expenses incurred by Seller (including reasonable attorney’s fees) in connection with the exercise of Seller’s rights hereunder.

(b) Upon the occurrence and during the continuance of a Buyer Event of Default, Seller shall have the right to (i) exercise any remedies available under Law, and (ii) terminate this PPA by providing five (5) days prior written notice of such termination to Buyer and (iii) in the event that Seller terminates this PPA subject to (ii) herein, Buyer shall pay a Termination Payment to Seller.

8.4 Termination Payment Notice. In the event that Seller elects to require payment of the Termination Payment by Buyer as provided in Section 8.3, then, as soon as practicable after calculation of the Termination Payment by Seller, Seller will notify Buyer of the amount of the Termination Payment and any amount otherwise due and outstanding under this PPA. Such notice will include a written statement explaining in reasonable detail the calculation of such amount. Buyer shall be required to pay the Termination Payment and any amount otherwise due and outstanding under this PPA to Seller within ten (10) Business Days after the effectiveness of such notice.

8.5 Remedies Cumulative. Except as specifically provided to the contrary, the rights and remedies contained in this Article 8 are cumulative with the other rights and remedies available under this PPA or at law or in equity.

8.6 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 PPA. 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.

ARTICLE 9. INVOICING AND PAYMENT

9.1 Invoicing and Payment.

(a) In the event that the Tariff Documents utilizes a “Netting Incentive” (as defined in the Tariff Program), Seller will issue monthly invoices within ten (10) Business Days after the conclusion of the preceding calendar month for Energy deliveries made during that month.

(b) In the event that the Tariff Documents utilizes a Buy-All Incentive” (as defined in the Tariff Program), Seller shall issue quarterly statements for Energy and Environmental Attributes deliveries and funds received by Seller from the Buyer’s Servicing Utility during the preceding quarterly period.

(c) Except as specifically provided to the contrary herein, all invoices under this PPA will be due and payable not later than twenty (20) Business Days after receipt of the applicable invoice. Each Party will make payment by ACH, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the applicable due date will accrue interest at the Late Payment Interest Rate until paid in full.

9.2 Disputed Amounts. A Party may in good faith dispute the correctness of any invoice (or any adjustment to any invoice) under this PPA at any time within twelve (12) 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 (except any portions thereof that are manifestly inaccurate or are not reasonably supported by documentation, payment of which amounts may be withheld subject to adjustment as hereinafter set forth) on the applicable payment due date, except as expressly provided otherwise elsewhere in this PPA, and to give notice of the objection to the other Party. Any required payment will be made within ten (10) Business Days after resolution of the applicable dispute, together with interest accrued at the Late Payment Interest Rate from the due date to the paid date.

9.3 No Setoff. Except as otherwise set forth herein, each Party hereby waives all rights to set-offs of amounts due hereunder. The Parties agree that all amounts due hereunder are independent obligations and shall be made without set-off for other amounts due or owed hereunder.

9.4 Records and Audits. Each Party will keep, for a period not less than two (2) 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. Notwithstanding the foregoing, in the event that Buyer conducts an audit and discovers an inaccuracy in Seller’s invoices, charges, computations and payments required for a Transaction in an amount in excess of five percent (5%), Buyer shall be entitled to recover the cost and expense of the audit in addition to the other corrective actions required as a result of said audit.

9.5 Currency. All pricing offered, payments made and amounts referenced hereunder are and will be in U.S. dollars.

**ARTICLE 10.
REPRESENTATIONS AND WARRANTIES; BUYER ACKNOWLEDGEMENTS;
ADDITIONAL COVENANTS**

10.1 Representations and Warranties.

(a) Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (b) the execution, delivery and performance of this PPA (together with Tariff Documents and Interconnection Agreement) are within its powers, have been duly authorized by all necessary action, do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Law applicable to it and do not require the consent of any third party; (c) this PPA and each other document executed and delivered in accordance with this PPA constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any bankruptcy, insolvency, reorganization and other Laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the applicable court; (d) it is acting for its own account, and has made its own independent decision to enter into this PPA, and is not relying upon the advice or recommendations of the other Party in so doing; (e) it is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this PPA; (f) it understands that the other Party is not acting as a fiduciary for or an advisor to it or its Affiliates; and (g) it has no knowledge of any facts or circumstances that could materially and adversely affect its respective ability to perform its obligations hereunder.

(b) Buyer represents and warrants to Seller that: (i) to its knowledge, there are no site conditions or construction requirements (including, but not limited to any Environmental Condition or roof conditions) that would increase the cost of installing the System or Interconnection Equipment at the planned locations or increase any liabilities in connection with the System or Interconnection Equipment; (ii) the information provided to Seller pursuant to this PPA as of the Effective Date is true and accurate in all material respects; (iii) Property Owner has fee simple and clear title to the Property, subject only to the Permitted Encumbrances; and none of the Permitted Encumbrances would reasonably be expected to adversely impact Seller's rights hereunder or under this PPA; (iv) no electricity generated by the System will be used to heat a swimming pool; (v) Buyer is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.

10.2 Buyer Acknowledgement Regarding Inapplicability of Bankruptcy Code Section 366. Buyer acknowledges and agrees that, for purposes of this PPA, Seller is not a "utility" as such term is used in Section 366 of the United States Bankruptcy Code, and Buyer agrees to waive and not to assert the applicability of the provisions of Section 366 in any bankruptcy proceeding wherein Buyer is a debtor.

ARTICLE 11. INDEMNITY; LIMITATIONS

11.1 Indemnity. To the fullest extent permitted by law, each Party (the "*Indemnitor*") hereby indemnifies and agrees to defend, protect, and hold harmless the other Party and its Representatives (the "*Indemnified Parties*") from and against any and all claims, losses, liabilities, damages, costs and expenses (including attorneys' fees) ("*Indemnity Claims*") caused by, resulting from, relating to or arising out of any breach of this PPA by the Indemnitor or any of its Representatives or any negligence or intentional misconduct on the part of the Indemnitor or any of its Representatives; *provided, however,* that the Indemnitor will not have any obligation to indemnify the Indemnified Parties from or against any Indemnity Claims to the extent caused by, resulting from, relating to or arising out of the gross negligence or intentional misconduct of the

Indemnified Parties, or material breach of this PPA by the Indemnitee. In addition to the foregoing, to the fullest extent permitted by law, Buyer, as the Indemnitor, hereby indemnifies and agrees to defend, protect, and hold harmless Seller and its Representatives, as the Indemnified Parties, from and against any and all Indemnity Claims related to any and all Environmental Conditions, except to the extent that the same are caused by the negligence or willful misconduct of Seller and/or its Representatives, where, as used in this PPA, the term (a) “*Environmental Conditions*” means (i) the violation or alleged violation of any Environmental Law at or on the Property; (ii) the release or potential release of any Hazardous Material at, on or from the Property, unless such Hazardous Material was brought onto the Property by Seller or its Representatives; and/or (iii) any other environmental matter adversely affecting the Property that was not directly caused by Seller or its Representatives; (b) “*Hazardous Material*” means any substance or material regulated by or listed in any Environmental Law; and (c) “*Environmental Law*” means any federal, state or local law, regulation, ordinance or other requirement governing human health and/or the environment.

11.2 Limitation of Remedies, Liability and Damages. The Parties confirm that with respect to the matters specified herein and to the extent specified the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. Without prejudice to the calculation of the amount of any Termination Payment, payment for Seller’s Losses, and/or indemnity claims arising out of claims by third parties, neither Party will be liable for consequential, incidental, punitive, special exemplary or indirect damages, by statute, in tort or under contract under any indemnity provisions or otherwise; provided however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for intentional misconduct. The limitations imposed herein, or remedies and the measure of damages are without regard to the applicable cause or causes, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding any provision of this agreement to the contrary, Seller’s maximum liability to the Buyer, except for indemnity obligations in respect of personal injury, property damage and intellectual property infringement claims, under this PPA will be limited, in the aggregate to the difference between the amount Buyer actually pays to utility for electricity used by Buyer and the amount Buyer would have had to pay to Seller for electricity supplied by Seller over the remaining term of the PPA.

11.3 Limitations on Warranties. Except as expressly provided in this PPA, Seller hereby disclaims any and all representations, warranties and guarantees, express or implied, including warranties of merchantability and fitness for a particular purpose.

11.4 Duty to Mitigate. Buyer and Seller shall each have a duty to mitigate damages pursuant to this PPA, and each shall use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party’s non-performance of this PPA, including with respect to termination of this PPA.

**ARTICLE 12.
CONFIDENTIALITY**

Seller is an Affiliate of Connecticut Green Bank, Connecticut Green Bank is a “public agency” for purposes of the Connecticut Freedom of Information Act (“FOIA”). Accordingly, this PPA and information received pursuant to this PPA will be considered public records and will be subject to

disclosure under the FOIA, except for information falling within one of the exemptions in Conn. Gen. Stat. § 1-210(b) and § 16-245n(d).

Because only the particular information falling within one of these exemptions can be withheld by Seller pursuant to an FOIA request, Buyer should specifically and in writing identify to Seller the information that Buyer claims to be exempt. Buyer should further provide a statement stating the basis for each claim of exemption. It will not be sufficient to state generally that the information is proprietary or confidential in nature and not, therefore, subject to release to third parties. A convincing explanation and rationale sufficient to justify each exemption consistent with General Statutes §1-210(b) and § 16-245n(d) must be provided.

Buyer acknowledges that (1) Seller has no obligation to notify Buyer of any FOIA request received by Seller, (2) Seller may disclose materials claimed by Buyer to be exempt if in Seller's judgment such materials do not appear to fall within a statutory exemption, (3) Seller may in its discretion notify Buyer of FOIA requests and/or of complaints made to the Freedom of Information Commission concerning items for which an exemption has been claimed, but Seller has no obligation to initiate, prosecute, or defend any legal proceeding, or to seek to secure any protective order or other relief to prevent disclosure of any information pursuant to an FOIA request, (4) Buyer will have the burden of establishing the availability of any FOIA exemption in any such legal proceeding, and (5) in no event shall Seller or any of its officers, directors, or employees have any liability for the disclosure of documents or information in Seller's possession where Seller, or such officer, director, or employee, in good faith believes the disclosure to be required under the FOIA or other law.

ARTICLE 13. NOTICES

13.1 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 or regular, certified, or registered mail, return receipt requested. All notices shall be deemed to have been properly given or made upon the earliest to occur of (a) actual delivery, (b) two (2) days after being sent by overnight courier service, (c) five (5) days after being deposited in the mail addressed as aforesaid and (d) one (1) day after being sent by e-mail; provided that in the case of notice by e-mail such notice is followed promptly by the sending of the original of such notice by overnight courier service. A Party may change its address by providing notice of the same in accordance with the provisions of this section.

If to Buyer:

Town of Branford
1019 Main Street,
Branford, CT 06405

If to Seller:

CEFIA Holdings LLC
75 Charter Oak Avenue, Suite 1-103,

Hartford, CT 06106

**ARTICLE 14.
OWNERSHIP OF AND TITLE TO THE SOLAR FACILITY
AND OTHER PROPERTY RIGHTS**

14.1 Ownership of Solar Facility by Seller.

(a) Title. Notwithstanding the System's presence on the Project Site and method of attachment thereto, and unless the ownership of such System is transferred to the Buyer in accordance with Section 17.3(b), Seller or its permitted assignee shall, at all times, retain title to and be the legal and beneficial owner of such System and all alterations, additions or improvements made thereto and replacements thereof by Seller. Seller shall be entitled and is hereby authorized to file one or more precautionary financing statements or fixture filings in such jurisdictions as it deems appropriate with respect to the System in order to protect its rights in such System. In no event shall anyone claiming by, through or under the Buyer (including but not limited to any present or future mortgagee of the Property) have any rights in or to the System, unless the System is transferred to the Buyer in accordance with Section 17.3(b). The Buyer acknowledges and agrees that Seller may be required to grant, or cause to be granted, to a Financing Party a security interest in the System, and the Buyer expressly disclaims and waives any rights it may have in the System pursuant to this PPA, unless the System is transferred to the Buyer in accordance with Section 17.3(b) or the Seller is otherwise in default of its obligations to Buyer.

(b) Ownership. The Parties specifically acknowledge and agree that Seller or its permitted assignee shall be the owner of the System for federal income tax purposes.

14.2 Lien Prohibition. Solely and exclusively for the purposes of applicable mechanics' lien law, no work performed by Seller at Property under this PPA, whether in the nature of erection, construction, installation, commissioning, alteration, repair, maintenance or removal, shall be deemed to be for the immediate use and benefit of the Buyer. To the maximum extent permitted by Law, no mechanic's or other lien shall be allowed against the Buyer or by reason of any consent given by the Buyer to Seller to improve any Property, including by the construction, installation, commissioning, maintenance, repair or removal related to the System. Seller shall place such contractual lien prohibition provisions in all contracts and subcontracts for System and improvements upon the Property, assuring and stating that, to the maximum extent permitted by Law, no mechanic's liens will be asserted against the Buyer's interest in such Property.

14.3 Lien Removal. If any mechanic's or other liens shall at any time be filed against Property by reason of work performed related to this PPA or labor, services or materials

performed or furnished, or alleged to have been performed or furnished, to Seller or to anyone performing any work, improvements, maintenance or operations of the System through or under Seller, and regardless of whether any such lien is asserted against the interest of the Buyer, or Seller, Seller, at its sole expense, shall cause the same to be discharged of record, or bonded to the satisfaction of the Buyer. If Seller shall fail to cause such lien to be so discharged or bonded after being notified of the filing thereof, then, in addition to any other right or remedy of the Buyer, the Buyer may bond or discharge the same by paying the amount claimed to be due, and the amount so paid by, including reasonable attorneys' fees incurred by the Buyer either in defending against such lien or in procuring the bonding for or discharge of such lien, together with interest thereon at the legal rate, shall be paid by Seller to Buyer.

ARTICLE 15.
ASSIGNMENT AND FINANCING

15.1 Assignment; Binding Effect.

(a) Except for assignments to Affiliates, neither Buyer nor Seller shall, without the prior written consent of the other, which consent will not be unreasonably withheld, conditioned or delayed, assign, pledge or transfer all or any part of, or any right or obligation under, this PPA, whether voluntarily or by operation of law, and any such assignment or transfer without such consent will be null and void.

(b) Notwithstanding the foregoing, Seller may, without the prior written consent of Buyer, assign, mortgage, pledge or otherwise directly or indirectly transfer all or any part of, or any right or obligation under this PPA (i) to any party that acquires Seller or all or substantially all of Seller's assets; (ii) for security purposes in connection with any financing or other financial arrangements regarding System; (iii) to any Financing Party; (iv) to any Qualified Assignee or (v) to an entity that enters into an agreement with a Qualified Assignee pursuant to which (1) such Qualified Assignee shall be responsible for System operation and maintenance under this PPA and (2) Seller shall have granted to the Qualified Assignee all other rights granted to Seller herein necessary for operation and maintenance of System (each, a "***Permitted Transfer***"). Seller shall deliver notice of any Permitted Transfer to Buyer in writing as soon as reasonably practicable. Buyer agrees to execute such reasonable consents to assignment and other documents, and to provide such information, as is requested by Seller in connection with any Permitted Transfer.

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

15.2 Cooperation with Financing. Buyer acknowledges that Seller will be financing the construction of the System and Buyer agrees that it shall reasonably cooperate with Seller and its Financing Parties in connection with such financing for the System, including (a) the furnishing of public information; (b) the giving of certificates; (c) providing of an officer's certificate of Buyer or its affiliate that this PPA was duly authorized, executed and delivered by Buyer, (d) the obtaining of any lien waivers, the execution of commercial law forms and such other documents, all as reasonably requested by Seller or any Financing Party to secure such Financing Party's collateral position in the System or in Seller's rights under this PPA; *provided, however*, that the

foregoing undertaking shall not obligate Buyer to change any rights of benefits, or increase any burdens, liabilities or obligations of Buyer, under this PPA to the Financing Parties except as specifically provided herein.

ARTICLE 16.
FINANCING PARTY ACCOMMODATIONS

16.1 Buyer Acknowledgment. Buyer acknowledges that Seller shall have the right to finance the System with financing accommodations from a Financing Party and that Seller's obligations will be secured by, among other collateral, a pledge or collateral assignment of this PPA and a first security interest in the System. In order to facilitate such necessary financing, Buyer agrees as set forth below.

16.2 Financing Party's Rights Following an Event of Default. Notwithstanding any contrary term or provision of this PPA:

(a) The Financing Party, as assignee, shall be entitled to exercise, in the place and stead of Seller, any and all rights and remedies of Seller under this PPA in accordance with the terms of this PPA, provided that such Financing Party also satisfies the obligations of Seller hereunder. The Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this PPA and the System.

(b) The Financing Party shall have the right, but not the obligation, to pay all sums due under this PPA and to perform any other act, duty or obligation required of Seller hereunder or cause to be cured any default or Seller Event of Default in the time and manner provided by the terms of this PPA. Nothing herein requires the Financing Party to cure any Seller Event of Default (unless the Financing Party has succeeded to Seller's interests) to perform any act, duty or obligation of Seller, but Buyer hereby gives the Financing Party the option to do so.

(c) Upon the exercise of remedies under its security interest in the System, including any sale thereof by the Financing Party, whether by judicial proceeding or under any power of sale, or any conveyance from Seller to the Financing Party, Buyer's consent shall not be required, however, the Financing Party will give notice to Buyer of the transferee or assignee of this PPA; *provided, further*, that any sale, transfer or other disposition of the System by the Financing Party, whether by judicial proceeding or otherwise, shall be made solely to a Qualified Assignee. Any such exercise of remedies shall not constitute an Event of Default.

(d) Upon any rejection or other termination of this PPA pursuant to any process undertaken with respect to Seller under the United States Bankruptcy Code, at the request of Financing Party made within sixty (60) days of such termination or rejection, Buyer will enter into a new PPA with Financing Party or its Qualified Assignee, on the same terms and conditions as hereunder.

(e) In the event that a Financing Party becomes the owner of the System as a result of the exercise of remedies under subsections (c) or (d) above, whether as a result of the exercise of its remedies as a secured party or in connection with the bankruptcy of Seller, the Financing Party shall agree not to disturb the Buyer's rights to purchase Energy under this PPA, pursuant to the terms and conditions hereof, and further agrees to sell its right in the System or the

PPA to a Qualified Assignee purchaser only if such purchaser agrees to continue to provide Buyer with Energy under this PPA in accordance with the terms and conditions thereof.

16.3 Financing Party's Right to Cure.

(a) Upon receipt from Financing Party of its invocation of the rights provided for in this Section 16.3 and the name and address of the Financing Party entitled to notice, Buyer will not exercise any right to terminate this PPA unless Buyer has given the Financing Party prior written notice at the address provided to Buyer in writing of any event giving rise to Buyer's right to terminate this PPA. Buyer's notice of an intent to terminate this PPA must specify the condition giving rise to such right. Notwithstanding any contrary term or provision in this PPA, Financing Party shall have forty-five (45) days beyond the cure period provided to Seller pursuant to this PPA to cure the condition. Buyer's and Seller's obligations under this PPA will otherwise remain in effect and required to be fully performed during any cure period.

(b) If the Financing Party or its Qualified Assignee (including any purchaser which meets the definition of a Qualified Assignee) has commenced and is diligently pursuing judicial proceedings to acquire title to or control of the System, or has acquired title to or taken control of the System, and in either event cures all existing Seller Events of Default that are capable of being cured by Financing Party or its Qualified Assignee subject to and within the time allowed by Section 16.3(a) and assumes in writing the obligations of Seller hereunder, then this PPA will continue in full force and effect.

16.4 Notice of Defaults and Events of Default. Upon and at any relevant time after receipt of the notice provided for in Section 16.3(a), Buyer agrees to deliver to the Financing Party a copy of any notice of a Seller's default simultaneously with the delivery of such notice by Buyer to Seller.

ARTICLE 17. **PURCHASE OPTION; END OF TERM AND END OF TERM OPTIONS**

17.1 Grant of Purchase Option. Seller hereby grants to Buyer the right and option to purchase all of the Seller's right, title, and interest in and to the System on the terms set forth herein ("**Purchase Option**"). Buyer may exercise the Purchase Option on the seventh (7th) anniversary of the Commercial Operation Date and on each successive third (3rd) anniversary thereafter during the remainder of the Term, or simultaneously with the termination of this PPA pursuant to Section 8.2 (collectively, the "**Purchase Option Dates**"), provided that no Buyer Event of Default, or any event which with the passage of time will become a Buyer Event of Default, has then occurred and is ongoing.

17.2 Determination of Purchase Price. Buyer may, at any time within thirty (30) days following each Purchase Option Date, request a determination of the purchase price under the Purchase Option (the "**Purchase Price**"). The Parties shall attempt to determine the Purchase Price by mutual agreement. If the Parties have not agreed on the Purchase Price within thirty (30) days after Buyer's request for a Purchase Price determination, then the Purchase Price shall be the fair market value of the System, as determined by an independent appraiser retained by the Parties (the "**Independent Appraiser**"), provided that the Purchase Price shall in no event be less than the

Termination Payment that would be due from Buyer to Seller if the PPA was terminated due to Buyer Event of Default at the Purchase Option Date. The Independent Appraiser shall be an individual who is a member of a national accounting, engineering or energy consulting firm qualified by education, experience, and training to determine the value of solar generating facilities of the size and age and with the operational characteristics of the System, and who specifically has prior experience valuing solar energy generating facilities. The Independent Appraiser shall be reasonably acceptable to Seller. Except as may be otherwise agreed by the Parties, the Independent Appraiser shall not be (or within three (3) years before his or her appointment have been) a director, officer, or an employee of, or directly or indirectly retained as consultant or adviser to, either of the Parties or their respective affiliates. The fair market value assessment of the System shall consider, among other things, the income and savings associated with the System for the remaining portion of the Term, and the System's past and projected performance. The Independent Appraiser shall make a determination of the Purchase Price within thirty (30) days of appointment (the "**Price Determination**"). Upon making the Price Determination, the Independent Appraiser shall provide a written notice thereof to both Seller and Buyer, along with all supporting documentation detailing the method of calculation of the Purchase Price. Except in the event of fraud or manifest error, the Price Determination shall be a final and binding determination of the fair market value. If Buyer wishes to exercise the Purchase Option following the Price Determination, it shall deliver an exercise notice to Seller within thirty (30) days of receipt of the Price Determination (the "**Exercise Period**"). Any such exercise notice shall be irrevocable once delivered. If Buyer does not exercise the Purchase Option during the Exercise Period, then the Price Determination shall be null and void, and Buyer may not request a new determination of the Purchase Price until the next Purchase Option Date. Each Price Determination by an Independent Appraiser shall be at Buyer's expense, provided that in the event Buyer exercises the Purchase Option, the applicable Price Determination shall be at Seller's expense.

17.3 End of Term. Upon the expiration of this PPA, the Buyer may choose, in its sole discretion, one of the following options by providing written notice to Seller at least sixty (60) days prior to the end of the Term:

(a) **Extension of Term.** Provided no Event of Default by the Buyer has occurred and is continuing under this PPA, unless such Event of Default has been waived in writing by Seller, the Buyer may extend the Term for the System; or

(b) **Purchase of the System.** Provided no Event of Default by the Buyer has occurred and is continuing under this PPA, unless such Event of Default has been waived in writing by Seller, Buyer may purchase the System at a purchase price which is the at a purchase price which is the then applicable fair market value of the System as determined by an independent third-party appraiser as mutually agreed by the Parties. If the Buyer exercises its option to purchase the System in a timely manner, the closing of such purchase, including the transfer of any relevant agreements and warranties, shall take place no later than one-hundred and twenty (120) days after the Buyer's exercise of its right to purchase the System at a time and place agreed upon by the Parties; or

(c) **Removal of the System.** The Buyer may require Seller, at Seller's sole cost and expense, to remove all tangible property comprising the System and, except as otherwise specified herein, return the portion of the Property on which the System was installed to its original

condition, subject to ordinary wear and tear. Notwithstanding the forgoing, Seller may leave in place existing flashing on roof penetration, provided Seller patch the roof at the Property as necessary or appropriate in the reasonable discretion of Seller. Seller shall begin such removal on a mutually convenient date and make commercially reasonable efforts to complete such removal within ninety (90) days of expiration of the Term. Seller shall remove all System and support structures, leave in place existing flashing on roof penetration and/or patch the roof at the Property as necessary or appropriate in the reasonable discretion of Seller.

17.4 Failure to Elect. If, upon the expiration of the Term, Buyer fails to make an election pursuant to Section 17.3, the Term for the System will be extended automatically for one (1) year and may be further extended by mutual agreement for one (1) year terms (each, a “Renewal Term”) unless earlier terminated in writing. Unless otherwise agreed to in writing by the Parties, during the Renewal Term of the System, the terms and conditions of this PPA shall remain in effect as to the System.

17.5 Payment for Service Rendered Prior to Termination. Upon any expiration or termination of the PPA, the Buyer will pay all fees owed to Seller for Energy delivered prior to the expiration or termination of the PPA within thirty (30) days following such expiration or termination, or within the applicable payment period, whichever is shorter.

ARTICLE 18. **MISCELLANEOUS**

18.1 Governing Law. This PPA will be governed by the Laws of the State of Connecticut, without giving effect to principles of conflicts of laws.

18.2 Entire Agreement; Amendments. This PPA (including the exhibits, any written schedules, supplements or amendments) constitutes the entire agreement between the Parties and shall supersede any prior oral or written agreements between the Parties, relating to the subject matter hereof. Without limiting the generality of the foregoing, the Parties acknowledge and agree that, as of the Effective Date of the PPA, (a) any and all prior agreements between the Parties relating to the subject matter of the PPA (collectively, the “**Prior Agreements**”) are superseded in their entirety by the PPA, (b) the Prior Agreements are of no further force or effect and no longer the legal obligation of either Party, (c) no Party had, nor now has, any claim against, or liability or obligation to, the other Party under the Prior Agreements, and (d) no asset or property of either Party was, or now is, bound by, or subject to, any encumbrance, lien or other restriction by reason of the Prior Agreements. Except as otherwise expressly provided in this PPA, any amendment, modification or change to this PPA will be void unless in writing and executed by both Parties.

18.3 Non-Waiver. No failure or delay by either Party in exercising any right, power, privilege, or remedy hereunder will operate as a waiver thereof. No waiver by either Party of a breach of any term or provision contained herein shall be effective unless signed and in writing and signed by the waiving Party. No consent by either Party to, or waiver of a breach by either Party, whether express or implied, shall be construed to operate as or constitute a consent to waiver of, or excuse of any other or subsequent or succeeding breach by either Party.

18.4 Severability. If any part, term, or provision of this PPA, is determined by an arbitrator or court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect or impair the validity, legality or enforceability of any other part, term, or provision of this PPA, and shall not render this PPA unenforceable or invalid as a whole. Rather the part of this PPA that is found invalid or unenforceable will be amended, changed, or interpreted to achieve as nearly as possible the same objectives and economic effect as the original provision, or replaced to the extent possible, with a legal enforceable, and valid provision that is as similarly in tenor to the stricken provision, within the limits of applicable Law, and the remainder of this PPA will remain in full force.

18.5 No Third-Party Beneficiaries. Nothing in this PPA 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.

18.6 No Recourse to Affiliates. This PPA is solely and exclusively between the Parties, and any obligations created herein on the part of either Party shall be the obligations solely of such Party. No Party shall have recourse to any parent, subsidiary, partner, member, Affiliate, lender, director, officer or employee of the other Party for performance or non-performance of any obligation hereunder unless such obligations were assumed in writing by the Person against whom recourse is sought.

18.7 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.

18.8 Attorneys' Fees; Costs. In the event of any action, claim, suit, proceeding, or arbitration between the Parties relating to this PPA or the subject matter hereof the prevailing Party will be entitled to recover its reasonable attorneys' fees and expenses and costs of such action claim, suit, proceeding, or arbitration in addition to any other relief granted or awarded. Each Party will bear its own costs and expenses relating to negotiating this PPA and any additional documents relating hereto or thereto.

18.9 Counterparts. This PPA may be executed in several counterparts, each of which is an original and all of which together constitute one and the same instrument. A signature on a copy of this PPA received by either Party by facsimile or other electronic transmissions (such as an email .pdf file) is binding upon the other Party as an original.

18.10 Further Assurances. The Parties shall at their own cost and expense do such further acts, perform such further actions, execute and deliver such further or additional documents and instruments as may be reasonably required or appropriate to consummate, evidence, or confirm the agreements and understandings contained herein and to carry out the intent and purposes of this PPA.

18.11 General Interpretation. The terms of this PPA have been negotiated by the Parties hereto and the language used in this PPA shall be deemed to be the language chosen by the Parties hereto to express their mutual intent. This PPA shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument of any portion

thereof to be drafted, or in favor of the party receiving a particular benefit under the PPA. No rule of strict construction will be applied against any person.

18.12 Forward Contract. The Parties acknowledge and agree that this PPA and the transactions consummated under this PPA constitute a “forward contract” within the meaning of the United States Bankruptcy Code and that each Party is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.

18.13 Dispute Resolution.

(a) In the event that any question, dispute, difference or claim arises out or in connection with this PPA, including any question regarding its existence, validity, performance or termination (a “Dispute”), then senior management personnel from both Seller and Buyer shall meet and diligently attempt in good faith to resolve the Dispute for a period of thirty (30) days following one Party’s written request to the other Party for such a meeting. If, however, either Party refuses or fails to so meet, or the Dispute is not resolved by negotiation, the provisions of Sections 18.13(b) shall apply.

(b) In the event the Parties are unable to resolve a Dispute pursuant to the provisions of Sections 18.13(a), the Parties agree that any State or Federal court located in Hartford County, Connecticut shall have exclusive jurisdiction and venue to hear all disputes arising out of or relating to this PPA. Further, notwithstanding anything in this PPA to the contrary, in the event a Party fails to perform as agreed upon hereunder, the non-breaching Party has the right to seek such injunctive relief and other equitable relief from that any State or Federal court located in Hartford County, Connecticut.

18.14 Rescission Period. Either Party may rescind this PPA, without penalty, by written notice delivered to and received by the other Party not later than three (3) Business Days after the Effective Date (the “*Rescission Period*”).

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, intending to be legally bound, Seller and Buyer have signed this PPA through their duly authorized representatives effective as of the date first set forth above.

CEFIA Holdings LLC
By: Connecticut Green Bank

By: _____
Name: Bryan Garcia
Title: CEO and President

Town of Branford

By: _____
Name:
Title:

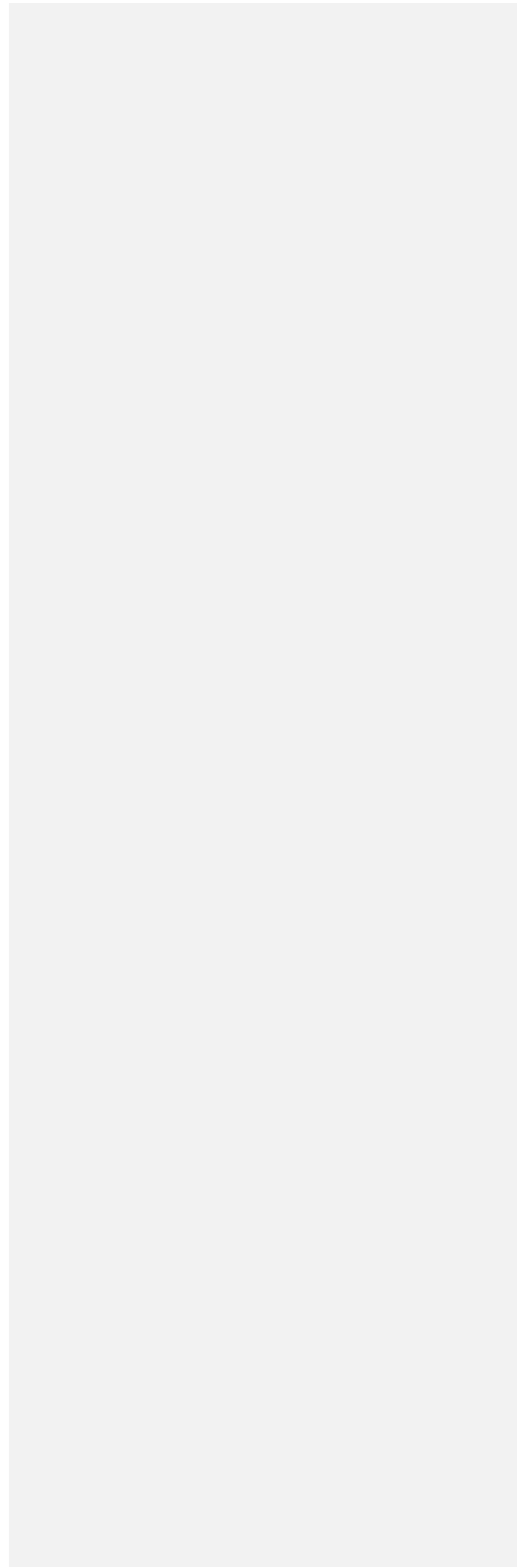


EXHIBIT A

PROPERTY

do give, grant, bargain, sell and confirm unto the said Town of Branford and unto its successors and assigns forever, all that certain piece or parcel of land containing 57 acres, more or less, located in the Town of Branford, County of New Haven, State of Connecticut and shown on a Map entitled "Map of Property Daniel P. Cosgrove and Joseph J. Cegelski Tabor Drive and Waverly Road Branford, Connecticut, Scale 1"=100' June 29, 1976" prepared by Donald L. Disbrow, Civil Engineer & Surveyor, Hamden, Connecticut, and bounded and described as follows:

Northerly by an old road and other land of the Grantors, on a straight line having a magnetic bearing of S 86° 33' 35" East, a distance of 896.49 feet;

Easterly by land now or formerly of the Estates of William R. Foote and Robert Foote, land now or formerly of Guy A. Farnham and Donald E. Farnham, and land now or formerly of Mary Jane Bradley, Eugenia Clair Bradley and Roberta Russell Bradley Prann, each in part, in all by the following 9 courses:

South 4°-04'-00" East, 275.47 feet,
South 1°-12'-20" East, 250.31 feet,
South 11°-24'-30" East, 86.45 feet,
South 10°-33'-00" West, 115.41 feet,
South 2°-57'-55" West, 75.18 feet,
South 2°-51'-10" West, 283.04 feet,
South 9°-13'-00" West, 212.35 feet,
South 29°-15'-50" West, 205.52 feet, and
Southwesterly 130 feet, more or less;

Southerly by land now or formerly of Edwin Gustafson by a curved line along the edge of a meadow, 200 feet, more or less;

Southerly again by land now or formerly of Edwin Gustafson by a straight line, 240 feet, more or less, said line being an easterly extension of the southerly bound of a right of way;

Westerly by said right of way, 22.87 feet;

Southerly again by said right of way and Waverly Road, 195 feet, more or less;

Easterly again by the west line of Waverly Road, 565 feet, more or less;

EXHIBIT B

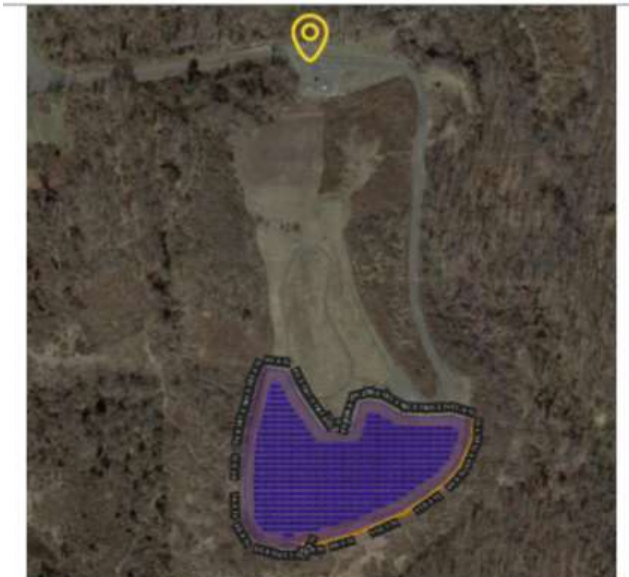
PERMITTED ENCUMBRANCES

1. Rights set forth in a Warranty Deed dated April 12, 1977 and recorded April 12, 1977 Volume 284 at Page 698 of the Branford Land Records.
2. Notice in favor of Commissioner of Energy and Environmental Protection of the State of Connecticut as set forth in instrument dated June 17, 2015 and recorded July 20, 2015 in Volume 1181 at Page 317 of the Branford Land Records.
3. Letter in favor of Connecticut Department of Energy & Environmental Protection as set forth in instrument dated August 11, 2015 and recorded August 27, 2015 in Volume 1183 at Page 982 of the Branford Land Records.

EXHIBIT C

PROJECT SITE

The Project Site shall be that portion of the Property on, under and over which the System shall be installed, being that approximate 127,000 square foot footprint shown in the figure below, or the following page, in addition to all portions of the Property where trenching, conduit, Interconnection Equipment and metering equipment are required so as to connect the System to the Delivery Point.



Commented [FS1]: [Kate Shain](#) do we have a sq ft footprint?

Commented [2R1]: I dont should I request from Sam at CSW?

EXHIBIT E

SCHEDULE OF DEFINITIONS AND RULES OF INTERPRETATION

1. **Definitions.** The definitions provided below and elsewhere in this PPA will apply to the defined terms used in this PPA:

(a) ***"Affiliate"*** means with respect to any entity, such entity's general partner or manager, employee, or any other entity that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such entity. For purposes of this definition, "control" (including, with its correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any such person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities or by contract or otherwise.

(b) ***"Bankrupt"*** means that a Party or other entity (as applicable): (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) is unable to pay its debts generally as they come due 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 sixty (60) 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, 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.

(c) ***"Beneficiary Designation"*** shall have the meaning ascribed to it in Section 3.2.

(d) ***"Business Day"*** means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

(e) ***"Buyer"*** shall have the meaning ascribed to it in the Preamble.

(f) ***"Buyer Event of Default"*** has the meaning ascribed thereto in Section 8.3.

(g) ***"Buyer's Servicing Utility"*** means the utility from which the Buyer receives its electrical service, specifically the The Connecticut Light and Power Company d/b/a Eversource or its successor.

(h) “**CAMD**” means the Clear Air Markets Division of the United States Environmental Protection Agency or any successor or other agency that is given jurisdiction over a program involving transferability of specific Environmental Attributes.

(i) “**Capacity Attributes**” means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the System, intended to value any aspect of the capacity of the System to produce Energy or ancillary services, which may be counted toward any measure, regulation, requirement, or program of Buyer’s Servicing Utility, Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity.

(j) “**Claiming Party**” shall have the meaning ascribed to it in Section 7.3.

(k) “**Commercial Operation**” will begin on the day in which the entire System is mechanically complete, capable of providing electricity to the Delivery Point at its nameplate capacity and Seller is in receipt of all required approvals, signoffs and permits from any and all Governmental Entities and the Buyer’s Servicing Utility for the production and sale of Energy (including the resale of Energy to Buyer’s Servicing Utility).

(l) “**Commercial Operation Date**” means the date that the System achieves Commercial Operation to Seller’s satisfaction, intended to be the same date as the “In-Service Date” as defined in the Tariff Agreement, if applicable.

(m) “**Defaulting Party**” shall have the meaning ascribed to it in Section 8.1.

(n) “**Delivery Point**” means the interconnection points on the Property designated by the Buyer’s Servicing Utility

(o) “**Effective Date**” shall have the meaning ascribed to it in the Preamble to this PPA.

(p) “**Emergency Repairs**” means any maintenance or repair necessary to address or prevent an unplanned interruption or reduction of Energy transmitted through the Interconnection Equipment from the System.

(q) “**Energy**” means electric energy (alternating current, expressed in kilowatt-hours) generated by the System. Energy does not include any attendant Environmental Attributes.

(r) “**Energy Payment Rate**” shall have the meaning ascribed to it in Section 3.4.

(s) “**Environmental Attributes**” means each of the following that is in effect as of the Effective Date: (i) credits, benefits, reductions, offsets and other beneficial allowances, including, to the extent applicable and without limitation, performance based incentives or renewable portfolio standard in the state in which the Property is located or in other jurisdictions (collectively, “**Allowances**”) attributable to the ownership or operation of the System or the production or sale of Energy, (ii) other Allowances howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the use of solar generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the sale of Energy during the Term, including any credits to be

evidenced by renewable energy certificates or similar laws or regulations applicable in any jurisdiction, (iii) any such Allowances related to (A) oxides of nitrogen, sulfur, or carbon, (B) particulate matter, soot, or mercury, or (C) the United Nations Framework Convention on Climate Change (the “*UNFCCC*”) or the Kyoto Protocol to the UNFCCC or crediting “early action” with a view thereto, or involving or administered by the CAMD, and (iv) all reporting rights with respect to such allowances under Section 1605(b) of the Energy Policy Act of 1992, as amended from time to time or any successor statute, or any other current or future international, federal, state or local law, regulation or bill, or otherwise.

(t) “*Environmental Conditions*” shall have the meaning ascribed to it in Section 11.1.

(u) “*Environmental Law*” shall have the meaning ascribed to it in Section 11.1.

(v) “*Event of Default*” shall have the meaning ascribed to it in Section 8.1.

(w) “*Exercise Period*” shall have the meaning ascribed to it in Section 17.2.

(x) “*Financing Party*” or “*Financing Parties*” shall mean any and all Persons or successors or assignees thereof lending money or extending credit to Seller or an Affiliate of Seller, or investing equity (including tax equity) in Seller or an Affiliate of Seller: (i) for the construction, term or permanent financing of the System; (ii) for working capital or other ordinary business requirement of the System (including but not limited to the maintenance, repair, replacement or improvement of the System); (iii) for any development financing, bridge financing, credit enhancement, credit support or interest rate protection in connection with the System; (iv) for the Seller’s operation of the System; or (v) for the purchase of the System and related rights and obligations of Seller.

(y) “*Force Majeure*” means any event or circumstance that prevents a Party from performing its obligations under this PPA, which event or circumstance (i) is not within the reasonable control, or is not the result of the negligence or willful misconduct, of the Claiming Party, and (ii) by the exercise of reasonable due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided and shall be deemed to include, but not be limited to, acts of God, acts of civil or military authorities, acts of war or public enemy, insurrections, riots, strikes or other labor disturbances, fires, explosions, floods, interruption of transportation, embargoes, or other causes of a similar nature. Force Majeure will not be based on Buyer’s inability economically to use, or sell under the Tariff Documents, the Energy and Environmental Attributes purchased hereunder from Seller.

(z) “*Governmental Approvals*” means all applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, approvals, registrations, orders, filings, entitlements and similar requirements of whatever kind and however described which are required to be obtained or maintained by any Person with respect to the development, siting, design, acquisition, construction, equipping, financing, ownership, possession, shakedown, start-up, testing, operation or maintenance of the System, the production and delivery of Energy, and Environmental Attributes, or any other transactions or matter contemplated by this PPA (including those pertaining to electrical, Property, zoning, environmental and occupational safety and health requirements).

(aa) “**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, license fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity, on or with respect to the Energy or this PPA.

(bb) “**Governmental Entity**” means any government or any agency, bureau, board, commission, court, department, official, political subdivision, tribunal, program administrator or other instrumentality of any government, whether federal, state or local, domestic or foreign, or any Person, owned, operated, managed or otherwise controlled thereby.

(cc) “**Hazardous Material**” shall have the meaning ascribed to it in Section 11.1.

(dd) “**Independent Appraiser**” shall have the meaning ascribed to it in Section 17.2.

(ee) “**Indemnified Parties**” shall have the meaning ascribed to it in Section 11.1.

(ff) “**Indemnitor**” shall have the meaning ascribed to it in Section 11.1.

(gg) “**Insolation**” shall have the meaning ascribed to it in Section 3.9.

(hh) “**Interconnection Agreement**” means the agreement for interconnection of the System with the distribution system of Buyer’s Servicing Utility.

(ii) “**Interconnection Equipment**” means that portion of the System, including mounting substrates or supports, wiring and connections, power inverters, service equipment, Metering Devices and equipment and utility interconnections, as required or appropriate to effect the interconnection of the System to the Property or to Buyer’s Servicing Utility.

(jj) “**ITC Credit**” means the applicable credit under Section 48 or Section 48E of the Internal Revenue Code of 1986, as each may be amended, supplemented, extended or replaced from time to time, and including all successor enactments or legislation relating thereto.

(kk) “**Late Payment Interest Rate**” means, for any date, the lesser of (i) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or, if not published on such day, on the most recent preceding day on which published), plus two percent (2%), and (ii) the maximum rate permitted by applicable Law.

(ll) “**Law**” means any national, regional, state or local law, statute, rule, regulation, code, ordinance, administrative ruling, judgment, decree, order or directive of any jurisdiction applicable to this PPA or the transaction contemplated hereby.

(mm) “**License**” shall have the meaning ascribed to it in Section 5.1(b).

(nn) “**License Term**” shall have the meaning ascribed to it in Section 5.1(b).

(oo) “**Meter**” shall have the meaning ascribed to it in Section 6.5.

(pp) “**Metering Device**” means any and all meters at or immediately before the Delivery Point needed for the registration, recording, and transmission of information regarding the Energy and delivered to the Delivery Point.

(qq) “**Non-Defaulting Party**” shall have the meaning ascribed to it in Section 8.1(a).

(rr) “**Parties**” shall mean Buyer and Seller, collectively or individually, as the context may require.

(ss) “**Permitted Encumbrances**” means certain encumbrances set forth in Exhibit B.

(tt) “**Permitted Transfer**” shall have the meaning ascribed to it in Section 15.1(b).

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

(vv) “**PPA**” means this Power Purchase Agreement.

(ww) “**Price Determination**” shall have the meaning ascribed to it in Section 17.2.

(xx) “**Project Site**” means the particular location on the Property of the System.

(yy) “**Property**” shall have the meaning ascribed to it in the Recitals.

(zz) “**Property Owner**” shall have the meaning ascribed to it in the Recitals.

(aaa) “**Property Taxes**” shall have the meaning ascribed to it in Section 3.8.

(bbb) “**Prudent Utility Practices**” means those practices, methods, and acts, that are commonly used by a significant portion of the solar powered electric generation industry in the United States using prudent engineering and operations to design and operate solar powered generating facilities and related electric equipment lawfully and with safety, dependability, efficiency, and economy, including all applicable requirements of Law. Prudent Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be a spectrum of possible standards, practices, methods or acts expected to accomplish the desired results, having due regard for, among other things, manufacturers’ warranties and the requirements of governmental authorities of competent jurisdiction and the requirements of this PPA.

(ccc) “**Prior Agreements**” shall have the meaning ascribed to it in Section 18.2.

(ddd) “**Purchase Price**” shall have the meaning ascribed to it in Section 17.2.

(eee) “**Purchase Option**” shall have the meaning ascribed to it in Section 17.1.

(fff) “**Purchase Option Dates**” shall have the meaning ascribed to it in Section 17.1.

(ggg) “**Qualified Assignee**” means as it pertains to any assignment of this PPA by Seller, any entity that has competence and experience in the operation and maintenance of solar photovoltaic systems similar in size and type as the System and is financially capable of performing Seller’s obligations under this PPA, all as reasonably demonstrated by Seller to Buyer, and agrees in writing to assume Seller’s duties and obligations under the PPA.

(hhh) “**Rescission Period**” shall have the meaning ascribed to it in Section 18.14.

(iii) “**Representatives**” means, in respect of a Person, the officers, directors, employees, agents, advisors, contractors, or other representatives of such Person.

(jjj) “**Seller**” shall have the meaning ascribed to it in Preamble.

(kkk) “**Seller Event of Default**” has the meaning ascribed thereto in Section 8.2.

(lll) “**Seller Termination Default**” has the meaning ascribed thereto in Section 8.2.

(mmm) “**Seller’s Losses**” shall mean the value of financial losses associated with Energy and Environmental Attributes that the System is prevented from generating or delivering to, or that is not accepted at, the Delivery Point to the extent not caused by Seller or Force Majeure, as reasonably calculated by Seller with appropriate supporting documentation, during the applicable portion of the Term, equal to the sum of: (1) the value of Energy, and Environmental Attributes based on the Energy Payment Rate, Tariff Rate, and Seller’s Tariff Allocation, as may be applicable, determined on the basis of the seasonality and historical performance of the System during the applicable time period during the calendar year immediately prior (if such data is available, and if it is not then on the expected System output), (2) the value of any lost or recaptured Tax Benefits; and (3) Seller’s actual costs of connecting or disconnecting the System to or from the Property.

(nnn) “**Site Electrical System**” means Buyer’s existing electrical system for the supply and distribution of electricity to the Property, which system is interconnected with Buyer’s Servicing Utility.

(ooo) “**SUT**” shall have the meaning ascribed to it in Section 3.7.

(ppp) “**System**” means the solar electric generating facility that produces the Energy sold and purchased under this PPA as more particularly defined in Exhibit C hereto, including the Interconnection Equipment.

(qqq) “**System Assets**” means each and all of the assets of which the System is comprised, including Seller’s solar energy panels, mounting systems, carports, tracking devices, inverters, integrators and other related equipment and components installed on the Property, electric lines and conduits required to connect such equipment to the Delivery Point, protective and associated equipment, improvements, and other tangible and intangible assets, permits, property rights and contract rights reasonably necessary for the construction, operation, and maintenance of the System.

(rrr) “**System Loss**” means loss, theft, damage or destruction of the System or System Assets, or any other occurrence or event that prevents or limits the System from operating in whole or in part, resulting from or arising out of any cause (including casualty, condemnation or other Force Majeure).

(sss) “**Tariff Agreement**” shall mean a tariff agreement associated with the System which may be entered into, pursuant to the Tariff Program, by the Buyer and Buyer’s Servicing Utility.

(ttt) “**Tariff Documents**” shall have the meaning ascribed thereto in the Recitals.

(uuu) “**Tariff Program**” shall have the meaning ascribed thereto in the Recitals.

(vvv) “**Tariff Rate**” shall mean the per kilowatt hour rate, inclusive of any adders, for Environmental Attributes and, if applicable, Energy sold to Buyer’s Servicing Utility and set forth in the Tariff Documents. In the event that the System utilizes the “Buy-All Tariff” or “Buy-All Incentive” (as defined in the Tariff Documents), the Tariff Rate shall be inclusive of Energy and Environmental Attributes. In the event that the System utilizes the “Netting Tariff” or “Netting Incentive” (as defined in the Tariff Documents), the Tariff Rate shall be solely with respect to Environmental Attributes.

(www) “**Tax Benefits**” means any tax benefit attributable to the System Assets or Energy including but not limited to (i) ITC Credit, (ii) accelerated depreciation attributable to the System Assets, and (ii) any other tax credit or tax write-offs allowed under applicable Law attributable to the System Assets or Energy, as each may be amended, supplemented, extended or replaced from time to time, and including all successor enactments or legislation relating thereto, irrespective of whether such Tax Benefits accrue for the benefit of Seller, any Affiliate, or any investor of Seller or any Affiliate of such investor.

(xxx) “**Term**” shall have the meaning ascribed thereto in Section 2.1.

(yyy) “**Termination Date**” means the date on which this PPA is terminated by Party a prior to the end of the Term.

(zzz) “**Termination Payment**” means an amount equal to the sum of the present values calculated at the per annum rate of interest equal to five percent (5%) of Seller’s Losses for each year (or part thereof) remaining between the Termination Date and the end of the Term.

(aaaa) “**Third Party Monitor**” means an unaffiliated third party, selected in each case by Seller and reasonably approved by Buyer that provides, installs, operates or maintains the installation, operation, or maintenance of the Metering Device.

(bbbb) “**Transaction**” means any transaction between the Parties under the terms of this PPA.

2. **Rules of Interpretation.** In this PPA, unless expressly provided otherwise:

(a) the words “herein,” “hereunder” and “hereof” refer to the provisions of this PPA and a reference to a recital, Article, Section, subsection or paragraph of this PPA or any other agreement is a reference to a recital, Article, Section, subsection or paragraph of this PPA or other agreement in which it is used unless otherwise stated;

(b) references to this PPA, or any other agreement or instrument, includes any schedule, exhibit, annex or other attachment hereto or thereto;

(c) reference to any Article, Section, or Exhibits means such Article of this PPA, Section of this PPA, or such Exhibit to this PPA, as the case may be, and references in any Article or Section or definition to any clause means such clause of such Article or Section or definition;

(d) a reference to this PPA, any other agreement or an instrument or any provision of any of them includes any amendment, variation, restatement or replacement of this PPA or such other agreement, instrument or provision, as the case may be;

(e) a reference to a statute or other Law or a provision of any of them includes all regulations, rules, subordinate legislation and other instruments issued or promulgated thereunder as in effect from time to time and all consolidations, amendments, re-enactments, extensions or replacements of such statute, Law or provision;

(f) the singular includes the plural and vice versa;

(g) a reference to a Person includes a reference to the Person’s executors and administrators (in the case of a natural person) and successors, substitutes (including Persons taking by novation) and permitted assigns;

(h) words of any gender shall include the corresponding words of the other gender;

(i) “including” means “including, but not limited to,” and other forms of the verb “to include” are to be interpreted similarly;

(j) references to “or” shall be deemed to be disjunctive but not necessarily exclusive, (i.e., unless the context dictates otherwise, “or” shall be interpreted to mean “and/or” rather than “either/or”);

(k) where a period of time is specified to run from or after a given day or the day of an act or event, it is to be calculated exclusive of such day; and where a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of such day;

(l) a reference to a Business Day is a reference to a period of time commencing at 9:00 a.m. local time on a Business Day and ending at 5:00 p.m. local time on the same Business Day;

(m) if the time for performing an obligation under this PPA expires on a day that is not a Business Day, the time shall be extended until that time on the next Business Day;

(n) a reference to (i) a day is a reference to a calendar day, (ii) a month is a reference to a calendar month, and (iii) a year is a reference to a calendar year;

(o) where a word or phrase is specifically defined, other grammatical forms of such word or phrase have corresponding meanings;

(p) references to any date in this PPA shall be deemed to mean such date as adjusted from time to time as permitted hereunder due to Force Majeure unless expressly stated otherwise; and

(q) if any index used in this PPA at any time becomes unavailable, whether as a result of such index no longer being published or the material alteration of the basis for calculating such index, then Seller and Buyer shall agree upon a substitute index that most closely approximates the unavailable index as in effect prior to such unavailability. If the base date of any such index is at any time reset, then the change to the index resulting therefrom shall be adjusted accordingly for purposes of this PPA.

EXHIBIT E
ENERGY PAYMENT RATE SCHEDULE

	Amount
Buyer's Tariff Allocation of the Tariff Rate	9.3%
Estimated value of Buyer's Tariff Allocation on a \$/kWh basis	\$0.0156/kWh
Estimated first year value of Buyer's Tariff Allocation	\$17,000
Seller's Tariff Allocation of the Tariff Rate	90.7%
Energy Payment Rate	\$0.1519/kWh

Any dollar values set forth above are based on estimated (1) expected production for the System, and (2) Tariff Rate. Such values are not binding or guaranteed under this PPA, actual values are subject to final design, engineering, and consultation of the System as well as the awarded Tariff Rate.