

**[MODEL] SOLAR ENERGY FACILITY GROUND LEASE
(Solar on Landfill)**

This Solar Energy Facility Ground Lease (the “**Ground Lease Agreement**”) is made this ____ day of _____, 20__ (the “**Effective Date**”) by and between the Town of Portland, Connecticut, a municipal corporation existing under and by virtue of the laws of the State of Connecticut with an address of 33 East Main Street, Portland, Connecticut 06480 (the “**Town**” or “**Owner**” or “**Lessor**”), and _____, a [State, corporate form] whose principal place of business is located at [City], [State] (the “**Lessee**”). Each of Lessor and Lessee is sometimes referred to as a “**Party**” and collectively as the “**Parties.**”

RECITALS

A. Owner owns the real property located at 39 Sand Hill Road and 2212 Pecauset Meadow, in Portland, Connecticut, consisting of approximately 27.8 acres and 6.2 acres, respectively, generally referred to in the Town Assessor’s records shown on Map and Lot numbers 022-0011 and 022-0012 (the “**Property**”), and more particularly the portions of such property proposed for solar use totaling approximately ____ acres, together with ingress, egress, and utility easements providing access to and from a public road and the point of utility interconnection, as shown and legally described in the attached Exhibit A and incorporated herein by this reference (the “**Leased Premises**”).

B. Lessee has successfully bid into the State of Connecticut’s Request for Proposals for the Shared Clean Energy Facilities Program established pursuant to Public Act 18-50, Conn. Gen. Stat. § 16-244z, and Public Utilities Regulatory Authority Docket No. 19-07-01 (the “**SCEF Program**”), and has entered into an “**Electricity Purchase Agreement**” with Eversource (the “**Utility**”) pursuant to which the Utility will purchase electricity generated from a solar energy facility (the “**System**”) on the Leased Premises for a term of ____ (__) years.

C. Lessee seeks from Owner, and Owner is willing to grant to Lessee, a long-term ground lease for the Property for the purposes of creating the System on the Property, all upon the terms and conditions set forth in this Ground Lease Agreement.

NOW, THEREFORE, in consideration of these promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landowner and Lessee agree as follows:

AGREEMENT

1. Lease and Confirmation. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Owner, Owner hereby leases the Leased Premises to the Lessee (the “**Ground Lease**”).

2. Purpose of Lease. The Ground Lease created by this Ground Lease Agreement is solely and exclusively for “**Solar Operations,**” which means solar resource evaluation; solar energy development; converting solar energy into electrical energy; collecting and transmitting the electrical energy converted from solar energy; and any and all other ancillary activities related to the foregoing.

DRAFT FOR DISCUSSION

Throughout the Term of this Ground Lease Agreement defined in Section 3 below, Lessee shall have the sole and exclusive rights to use the Leased Premises in Exhibit A for Solar Operations. The Owner shall have the right to use the rest of the Property for transfer station operations, conservation, or other purposes that do not interfere with the Solar Operations.

3. Term. This Ground Lease will become effective on the Effective Date and will expire no less than twenty (20) years thereafter, (the **“Ground Lease Term”**) unless earlier terminated in accordance with the provisions herein. The initial term of this Ground Lease shall run from the Effective date through the construction of System (the **“Construction Term”**), but will not exceed three (3) years. Once construction is completed and the System is energized and operational, the Ground Lease shall run for twenty (20) years, or such term that coincides with the Lessee’s Electricity Purchase Agreement, whichever is longer (the **“Operational Term”**). During the Operational Term, Lessee or Assignee (as defined in Section 18 below) may, by notice to Owner no later than thirty (30) days prior to the expiration of the Operational Term, elect to extend this Ground Lease Agreement for an additional five (5) year period commencing upon the expiration of the Operational Term (the **“First Renewal Term”**). Similarly, Lessee and any Assignee may, by notice to Owner no later than thirty (30) days prior to the expiration of the First Renewal Term, elect to extend this Ground Lease Agreement for a second five (5) year period commencing upon the expiration of the First Renewal Term (the **“Second Renewal Term”**). With respect to each extension of the term of this Ground Lease Agreement, Owner and Lessee shall execute in recordable form, and Lessee shall then record, a memorandum evidencing the extension, satisfactory in form and substance to Lessee.

4. Ground Lease Payments. Commencing on the Effective Date, and continuing through the Construction Term, the Operational Term, and the First Renewal Term and Second Renewal Term, if any, the Lessee shall make the payments to the Owner as set forth in the table below (each payment a **“Ground Lease Payment,”** and collectively, **“Ground Lease Payments”**). As shown in the table below, the Total Ground Lease Payment each year will be comprised of (1) rent, (2) taxes or payments-in-lieu-of-taxes (**“PILOT”**), or (3) a combination thereof, totaling \$_____ annually. For clarification purposes, all Ground Lease Payments made pursuant to this Ground Lease Agreement shall be paid to the Owner annually on the Effective Date, or the anniversary thereof.

| <u>Ground Lease Term</u> | <u>Annual Ground Lease Payment</u> | | |
|-----------------------------------|------------------------------------|-------------------------|----------------|
| | <u>Rent</u> | <u>+ Taxes or PILOT</u> | <u>= TOTAL</u> |
| Construction Term (up to 3 years) | \$_____/year | \$_____/year | \$_____/year |
| Operational Term (up to 20 years) | \$_____/year | \$_____/year | \$_____/year |
| First Renewal Term (5 years) | \$_____/year | \$_____/year | \$_____/year |
| Second Renewal Term (5 years) | \$_____/year | \$_____/year | \$_____/year |

5. Acknowledgement of use of Property as a landfill. Notwithstanding anything to the contrary contained in this Ground Lease Agreement, Lessee acknowledges that the Property is a closed municipal landfill that was used for the disposal of waste and that the surface of portions of the Property is a cap possibly encapsulating hazardous materials, which cap must be safeguarded and cannot be disturbed in any way unless authorized by the Connecticut Department of Energy and Environmental Protection (the “CT DEEP”). Lessee further acknowledges that the Owner has certain obligations with respect to the closed landfill and that Lessee shall be responsible for obtaining any permits and approvals from CT DEEP which are required for the Lessee’s use of the Leased Premises.

6. Ownership of System. Unless otherwise agreed to in writing by a separate agreement, Owner shall have no ownership or other interest in any System installed on the Leased Premises or any environmental attributes produced therefrom, including without limitation any and all credits, benefits, emissions reductions, offsets and allowances of any kind, howsoever entitled, attributable to the System or the electric energy, capacity or other generator-based products produced therefrom. The manner of operation of the System, including but not limited to decisions on when to conduct maintenance, is within the sole discretion of Lessee.

7. Improvements of Leased Premises.

7.1 Solar Operations improvements and components. Lessee shall have the exclusive right to construct an approximately ___ megawatt DC / ___ megawatt AC System as part of the Solar Operations, at its sole expense. The Lessee shall have the exclusive right to erect, construct, reconstruct, replace, relocate, remove, operate, maintain and use the following from time to time, on, under, over and across the Leased Premises, in connection with the Solar Operations:

(a) meteorological and solar irradiation measuring equipment, including but not limited to all necessary and proper appliances and fixtures for use in connection with said equipment, to determine the feasibility of solar energy conversion on the Leased Premises, on adjacent property or elsewhere (collectively the “**Measuring Equipment**”);

(b) solar panels or modules, steel towers, foundations and concrete pads, support structure, footings, anchors, fences, inverters, pad mounted transformers and other fixtures and facilities, maintenance, security, office and/or guest facilities, staging areas for the assembly of equipment, power generation facilities to be operated in conjunction with large solar panel or module installations, control buildings, laydown areas, safety signage, and related facilities and equipment (collectively the “**Site Improvements and Infrastructure**”). Lessee shall not be permitted to use concrete footings below ground, or drive posts into the ground, or install any Site Improvements and Infrastructure in any location or in any manner of installation that may interfere with, disturb, puncture, or otherwise compromise the cap on the Portland Landfill. Lessee agrees that any concrete poured on the site shall only be done so for the support of the inverters, transformers and switchgear, ballast footings (above ground racking supports) and only for other ancillary equipment that cannot otherwise be installed on the site without concrete support. At termination of this Agreement and subject to Section 15 of this Ground Lease Agreement, Lessee agrees to remove any concrete that is installed or poured on to the property and return the property to its condition prior to the commencement of this Agreements as is most reasonably possible.

(c) electrical wires and cables required for the gathering and transmission of electrical energy and/or for communication purposes (excepting cell phone towers which shall not be permitted), which may be placed overhead on appurtenant support structures or underground and one or more substations or interconnection or switching facilities from which Lessee may interconnect to a utility transmission system or the transmission system of another purchaser of electrical energy, together with the appropriate rights of way on, along, in and under the Property (collectively the “**Electrical Improvements and Infrastructure**”); and

(d) any other improvements, including roads, facilities, machinery and equipment that Lessee reasonably determines are necessary, useful or appropriate to accomplish any of the foregoing.

7.2 Additional improvements by Lessee. So long as the same do not violate any requirements of CT DEEP with respect to the Leased Premises or the Property and its prior use as a landfill, and so long as the same are done in compliance with any permit or approval (if any) of CT DEEP or the Town which are required for such activity, Lessee may remove, trim, prune, top or otherwise control the growth of any tree, shrub, plant or other vegetation; dismantle, demolish, and remove any improvement, structure, embankment, impediment, berm, wall, fence or other object on or that intrudes (or upon maturity could intrude) into the Leased Premises that could obstruct, interfere with or impair the Solar Operations or the use of the Leased Premises intended by Lessee hereunder; and excavate, grade, level, and otherwise modify the land; and undertake any other lawful activities, whether accomplished by Lessee or a third party authorized by Lessee, that are necessary, helpful, appropriate or convenient in connection with, incidental to or to accomplish any of the foregoing purposes; **provided however that** Lessee shall not have the right to alter or otherwise affect any of the Owner’s existing or future improvements located on the Property, including [ongoing and future transfer station activities, etc.].

7.3 Improvements by Owner. Owner has no obligation to make improvements on the Leased Premises or the Property to accommodate the Solar Operations.

7.4 Permitting and Approvals. So long as such activity by Lessee is performed in a manner which does not violate any of the post-closure requirements and monitoring obligations imposed by CT DEEP as it relates to the prior use of the Property as a landfill, the Owner hereby agrees that Lessee may, in its sole discretion and immediately following execution of this Ground Lease Agreement, commence taking any and all actions as may be necessary or proper for permitting of Solar Operations on the Leased Premises. The Owner shall cooperate with Lessee in Lessee’s efforts to effectuate the permitting of the Leased Premises for construction and development of the Solar Operations, including, but not limited to, execution and return of any required documentation to Lessee within ten (10) business days of receipt of written request therefor. Prior to submitting any application or request to any governmental authority or utility with jurisdiction over the Solar Operations, including but not limited to CT DEEP, the Connecticut Siting Council, the Connecticut Public Utilities Regulatory Authority, or Eversource, for any approval or consent which is required for any of Lessee’s Solar Operations, Lessee shall provide Owner with a copy of such application or request with a reasonable time to review each such application or request and provide comments. Owner also agrees to take whatever actions are reasonably necessary to apply for, and obtain, any and all regulatory and other

approvals necessary for Lessee's use of the Leased Premises, or any portion thereof, for its Solar Operations due to the prior use of the Property as a waste disposal facility at Lessee's sole cost and expense. Lessee shall insure that CT DEEP has approved all Lessee's Solar Operations and construction activities which require CT DEEP approval and Lessee shall provide a copy of all such approvals to Owner prior to performing any Lessee Solar Operations and construction activities subject to that approval. It is understood and agreed that if CT DEEP imposes any additional requirements on the Property or Owner due to Lessee's use of the Leased Premises for the System and Solar Operations during the term of the Ground Lease Agreement, such additional requirements shall be the responsibility of Lessee.

7.5 Site Plans, Construction Plans, Schedules, and Updates. Lessee agrees to provide up-to-date site plans and construction plans, and a schedule of proposed construction activities during the Construction Term, as well as bi-weekly updates on Lessee's solar development efforts to the Owner commencing within sixty (60) days of the Effective Date. For any new construction on the Leased Premises, such construction shall be designed and built to the minimum standards for any county, state and federal codes and requirements in effect at the time of construction, including without limitation, the applicable building and fire codes.

7.6 Signage. Lessee shall have the right to place one or more signs advertising the Solar Operations provided that, prior to putting up any such signage, Lessee has obtained approval from Owner, which shall not be unreasonably withheld, and Lessee has obtained all required sign permits from the local governing authority.

7.7 Fencing. Lessee shall maintain security fencing and gating, with cameras, enclosing the Leased Premises for the duration of the Construction Term, Operational Term, and any extensions thereto.

7.8 Utility Easement. Owner agrees to execute any easement agreement required by the utility for interconnection in the form required by the utility.

8. Ingress and Egress. The rights granted to Lessee in this Ground Lease include the nonexclusive right of ingress of and egress from the Solar Operations (whether located on the Leased Premises, on adjacent property or elsewhere) to and from a public road, over and across the Property by means of any existing roads and lanes thereon, and by such other route or routes as Lessee may construct on the Property from time to time with the written consent of the Landlord; and a construction and utility easement over Owner's Property adjacent to the Leased Premises for construction and maintenance of the Solar Improvements. Owner may access the Leased Premises for (i) the purpose of inspection of activities thereon; and (ii) to perform monitoring/maintenance which is required by applicable law due to the prior use of the Leased Premises by Owner as a solid waste landfill upon twenty-four (24) hours' prior notice to Lessee, except in the case of emergency, when no advance notice shall be required, **provided that** such access shall be in the company of a Lessee representative and shall comply with Lessee's safety requirements and shall not in any manner interfere with Lessee's Solar Operations nor violate applicable laws or governmental regulations.

9. Grant of Solar Easement. The rights granted to Lessee in this Ground Lease include an exclusive easement and right to capture, use and convert sunlight and related solar resources on an

unobstructed basis over and across the Landlord Property. Any obstruction to the receipt of and access to sunlight throughout the entire area of the Leased Premises is prohibited; ***provided however that***, consistent with Section 7.2, trees, structures and improvements located on the Property as of the Effective Date of this Ground Lease Agreement shall be allowed to remain and Lessee may not require their removal. Owner may not place or plant any trees, structures or improvements exceeding 10 feet in height or likely to exceed 15 feet in height on the Property after the date of this Ground Lease which may, in Lessee's sole judgment, impede or interfere with the solar irradiation to the Solar Operations, unless Owner has received approval from Lessee for any such trees, structure or improvement. Lessee agrees not to unreasonably withhold its approval for those structures or improvements the Owner proposes to place or construct on that portion of the Property not occupied by the Solar Operations. The rights granted to Lessee in this Ground Lease also include a non-exclusive right for the installation, use, repair, replacement and removal of electric transmission facilities across the Owner's Property; a non-exclusive right for the installation, use, operation, maintenance, repair, replacement and removal of electric interconnection facilities across the Owner's Property; and a non-exclusive right for the installation, use, operation, maintenance, repair, replacement and removal of subjacent and lateral support on the Owner's Property to whatever is necessary for the operation and maintenance of the Solar Operations, including, without limitation, guy wires and supports.

9.1 Term of Solar Easement. The term of the Solar Easement described in this Section 9 shall commence upon the Effective Date of this Ground Lease and shall continue until the last to occur of (i) expiration of the Ground Lease Term, or (ii) removal by Lessee of all of its property from the Leased Premises after expiration of the Ground Lease Term, according to Section 15 below.

9.2 Recording of Solar Easement. Additional details concerning the location and configuration of the Solar Easement shall be set forth in a recordable instrument prepared by Lessee, which Owner agrees to execute, and have notarized, within ten (10) days of any Lessee request therefor made from time to time. In addition, at Lessee's request and expense, the easements described in this Section 9 may be set forth in a separate standalone easement agreement, which Owner and Lessee agree to execute and which Lessee shall have recorded as an encumbrance on the property of Owner and binding upon all subsequent owners, successors, and assigns.

10. Operating Expenses; Maintenance; Security.

10.1 Operating Expenses. Lessee shall fully and promptly pay for all water, gas, heat, light, power, telephone service, and other public utilities furnished to the Leased Premises and used by Lessee throughout the Term hereof, and for all other costs and expenses of every kind whatsoever in connection with the use, operation, and maintenance of the Leased Premises and all activities conducted thereon.

10.2 Maintenance. The Solar Operations shall be maintained by Lessee at its own expense. Lessee shall maintain, protect and preserve the Solar Operations in a safe, neat and attractive condition and in good and serviceable repair, and in accordance with all applicable laws, rules, ordinances, orders and regulations of all governmental agencies.

10.2 Security. Security for the Solar Operations shall be the responsibility of Lessee. Nothing in this Ground Lease Agreement shall be construed to impose security obligations upon Owner, and Owner shall not be liable for any loss or damages suffered by Lessee or third party solar panel owners due to Lessee's and such third parties use and occupancy of and activities on the Leased Premises.

11. Owner's Representations, Warranties and Covenants. Owner hereby represents, warrants and covenants to Lessee, which representations, warranties, and covenants shall be effective as of the execution of this Ground Lease Agreement:

11.1 Ownership and Authority. Owner is the sole owner of the property comprising the Leased Premises as set forth in the Recitals and has the unrestricted right and authority to execute this Ground Lease and to grant to Lessee the rights granted hereunder. Each person signing this Ground Lease on behalf of Owner is authorized to do so. When signed, this Ground Lease constitutes a valid and binding agreement enforceable against the Owner in accordance with its terms. No consent or other approval, authorization or action by, or filing with, any person is required to be made or obtained by such party for Owner's lawful execution, delivery and performance of this Lease.

11.2 No liens or encumbrances. There are no liens, encumbrances, leases, fractional interests, mineral rights or oil and gas rights, or other exceptions to Owner's fee title ownership of the Leased Premises or otherwise burdening the surface or subsurface estate of Owner in the Leased Premises other than as set forth on Schedule B attached hereto. Owner has not received any notice (orally or in writing) from any third-party of any adverse claim or encumbrance burdening the Leased Premises.

11.3 No litigation regarding the Property. No litigation, bankruptcy proceeding, or condemnation of, or relating to, the Property is pending and, to the best of Owner's knowledge, no litigation or administrative actions are proposed, threatened, or anticipated with respect to any matter affecting the Property. If the Owner learns of any additional litigation or administrative action proposed, threatened, or instituted with respect to the Property prior to the execution of a Ground Lease Agreement, the Owner shall promptly deliver notice thereof to Lessee.

11.4 Quiet Enjoyment. Owner covenants and warrants that Lessee shall peacefully hold and enjoy all of the rights granted by this Ground Lease Agreement for its entire term without hindrance or interruption by Owner or any person lawfully or equitably claiming by, through, under or superior to Owner subject to the terms of this Ground Lease Agreement.

11.5 Ingress, egress, and access. Owner represents and warrants that there is insurable ingress and egress to and from the Leased Premises, as well as reasonably available, suitable and sufficient access to the Leased Premises from adjacent or nearby public roadways for pedestrian and vehicle access and communications lines.

11.6 Exclusivity and no interference. The Ground Lease granted hereunder is exclusive to the Lessee, and in no event will the Owner grant a license, easement, Environmental Land Use Restriction, option, leasehold, or other rights or limitations affecting the Leased Premises to any

person, utility, or other entity seeking, directly or indirectly, to develop the Leased Premises for solar energy purposes or any other use that would impair solar energy development. Owner shall not grant any rights to any person or entity on or with respect to any other property of Owner, which would, currently or in the future, impede or interfere with: (a) Lessee's access to the Leased Premises and the siting, permitting, construction, installation, maintenance, operation, replacement, or removal of the Solar Operations; or (b) the flow of solar radiation, or direction of exposure to the sun over the Leased Premises.

11.7 Cooperation regarding land use claims. Owner, at no "out-of-pocket" cost to Owner, including reasonable attorneys' fees and costs, shall cooperate with Lessee to obtain non-disturbance, subordination and other title curative agreements as reasonably requested by Lessee from any person with a lien, encumbrance, mortgage, lease or other exception to Owner's fee title to the Leased Premises to the extent necessary to eliminate any actual or potential interference by any such person with any rights granted to Lessee under this Lease. Owner shall also provide Lessee with any further assurances and shall execute any truthfully accurate estoppel certificates, consents to assignments or additional documents that may be reasonably necessary for recording purposes or otherwise reasonably requested by Lessee.

11.8 Cooperation regarding permits and approvals. During the Ground Lease Term, Owner, at no cost to Owner, shall use commercially reasonable efforts to cooperate with Lessee in complying with, or obtaining, any land use permits and approvals, tax incentive or tax-abatement program approvals, building permits, environmental impact reviews or any other approvals required or deemed desirable by Lessee in connection with the development, financing, construction, installation, replacement, relocation, maintenance, operation or removal of the Solar Operations, including execution of applications for such approvals and delivery of information and documentation related thereto, and execution, if required, of any orders or conditions of approval. Lessee shall pay for Owner, and hold Owner harmless from, all out-of-pocket expenses incurred by Owner in connection with such cooperation within ten (10) days after Lessee's receipt of a request for such payment together with reasonable detail with respect to such expenditures.

11.9 Property in Compliance. With the express understanding that the Leased Premises is a portion of a capped municipal landfill and subject to the current post-closure requirements and monitoring obligations by CT DEEP, to the best of Owner's actual knowledge, Owner is in material compliance with all environmental laws and current post-closure requirements and monitoring obligations as the same are applicable to the Leased Premises, and is not subject to any environmental proceedings with respect to the Leased Premises, nor is there any environmental proceeding with respect to the Leased Premises to which any other person is subject. Owner has not received any written notice of any violation, and to the actual knowledge of Owner, no other person has received any written notice of any violation, that, as of the date hereof, remains uncured, and no writs, injunctions, decrees, orders or judgments outstanding, no suits, claims, actions, proceedings or investigations have been instituted or filed, and none are pending or, to the knowledge of Owner, threatened, under any environmental laws with respect to the ownership, use or occupation of the Leased Premises.

11.10 Owner's rights to use the Property. The Owner shall continue to have the right to use the Property during the Ground Lease Term for its own accord provided that such use (i) does not

change the topography of the Property; (ii) does not create any encumbrance which would have an effect on title to the Property which would be superior to Lessee's leasehold estate under the Ground Lease Agreement; and (iii) does not otherwise interfere with Lessee's exercise of its rights under this Ground Lease Agreement. The Owner shall be able to perform any and all continuing obligations concerning the prior use of the Property as a landfill.

12. Lessee's Representations, Warranties and Covenants. Lessee hereby represents, warrants and covenants to Owner, which representations, warranties, and covenants shall be effective as of the execution of this Ground Lease Agreement, and shall continue to be effective at and survive commencement of any Ground Lease Agreement:

12.1 Authority. The execution of this Ground Lease has been duly authorized and each person executing this Ground Lease on behalf of Lessee has authority to do so and to bind Lessee.

12.2 No litigation regarding Lessee. There are no pending or threatened actions, suits, proceedings, inquiries or investigations before or by any judicial court or administrative or law enforcement agency against or affecting Lessee or its properties wherein any unfavorable decision, ruling or finding would adversely affect the validity or enforceability of this Ground Lease or Lessee's ability to carry out its obligations under this Ground Lease.

12.3 Compliance with Governmental Agencies. Lessee, at its expense, shall comply in all material respects with valid laws, ordinances, statutes, orders and regulations of any governmental agency applicable to the Solar Operations on the Leased Premises.

12.4 Owner's Use During Ground Lease Term. Subject to the provisions of Section 11.9 above, the Owner shall have the right to use the Property during the Ground Lease Term and retain any income derived therefrom. Lessee shall be responsible for any damage to Owner's facilities, equipment or other personal property directly caused by Lessee's activities on the Property during the Ground Lease Term, and during the removal by Lessee of all of its property from the Leased Premises after expiration of the Ground Lease Term according to Section 15 below.

12.5 Construction Liens.

(a) Lessee shall not create or suffer to be created or to remain, and shall promptly discharge, any mechanic's, laborer's, or materialmen's lien upon the Property arising from or relating to any of Lessee's Solar Operations and Lessee will not suffer any other matter arising out of Lessee's use and occupancy of the Leased Premises where the estate, rights and interests of Owner in the Property or any part thereof might be impaired, except in accordance with, and subject to, the provisions of this Ground Lease Agreement.

(b) If any mechanic's, laborer's, or materialman's lien shall at any time be filed against the Property or the Leased Premises arising from or relating to any work done by, or at the request of, Lessee, Lessee within twenty (20) days after notice to Lessee of the filing thereof, shall cause such lien to be discharged of record or bonded over by payment, deposit, bond, insurance, or otherwise, or Lessee will be declared in default of this Ground Lease Agreement. If Lessee shall fail to discharge any such lien, the Owner may, at its option, discharge the same and Lessee shall be obligated to reimburse

Owner for all costs and expenses, including reasonable attorneys' fees within ten (10) days after Lessee's receipt of notice and reasonable supporting documentation; it being hereby expressly covenanted and agreed that such discharge by Owner shall not be deemed to waive, or release, the default of Lessee in not discharging the same.

12.6 Insurance.

(a) During the Ground Lease Term, and during the removal by Lessee of all of its property from the Leased Premises after expiration of the Ground Lease Term according to Section 15 below, Lessee, at its sole cost and expense, shall procure and maintain the following insurance:

(i) Workers' Compensation Insurance as required by the laws of the State of Connecticut and employer's liability insurance in the amount of \$500,000.00 by accident, each accident/\$500,000.00 by disease, each employee/\$500,000.00 by disease, policy limit.

(ii) General comprehensive liability insurance, written on an occurrence basis, with a combined single limit of not less than Two Million Dollars (\$2,000,000.00) for injury to or death of any one person, for injury to, or death of, any number of persons in one occurrence, and for damage to property, insuring against liability of Lessee, including, coverage for contractual liability and broad form property damage, with respect to the Property and the Leased Premises, Lessee's Solar Operations, removal of equipment and Restoration under Section 15, or any other aspect arising out of Lessee's use or occupancy of the Leased Premises hereunder, and Four Million Dollars (\$4,000,000.00) in the aggregate; and (ii) excess liability (so-called umbrella) coverage having a limit of Five Million Dollars (\$5,000,000.00) written on an occurrence basis;

(iii) Automobile Liability Insurance - Combined single limit of One Million dollars (\$1,000,000.00).

(b) The Owner shall be named as an additional insured on each such policy of Commercial General Liability Insurance and Automobile Liability Insurance. Lessee shall provide the Owner with certificates evidencing such insurance within thirty (30) days after the Effective Date. All insurance proceeds paid under the insurance policies maintained by Lessee shall be paid to Lessee, subject to the reimbursement to Owner of any Owner expenses related to any claims awarded under these policies in accordance with this Ground Lease Agreement.

13. Indemnity.

13.1 Indemnity by Lessee. Subject to Section 13.2 below and except to the extent that liability, claim, loss, damage or expense results from an act or negligence or willful misconduct of Owner or any officer, employee, contractor, agent or successor of Owner, or relates to the prior use of the Leased Premises as a solid waste disposal facility independent of Lessee's Solar Operations, or Restoration, or any other aspect arising out of Lessee's use or occupancy of the Leased Premises, Lessee shall defend, indemnify and hold Owner, Owner's property, including the Leased Premises, and Owner's officers, agents, successor and assigns, free and harmless from all Defaults and misrepresentations by Lessee (subject to applicable cure periods) and any and all liability, claims, loss, damages, or expenses (including reasonable attorneys fees and costs) resulting from Lessee's occupation and use of the Leased

Premises, specifically including, without limitation, any liability, claim, loss, damage or expense arising by reason of the following: (1) the death or injury of any person, including any person who is an employee or agent of Lessee, or by reason of the damage to or destruction of any property, including property owned by Lessee or by any person who is an employee or agent of Lessee, from any cause whatsoever while that person or property is in or on the Leased Premises or in any way connected with the Leased Premises or with any of the Solar Operations or personal property on the Leased Premises, (2) the death or injury of any person, including any person who is an employee or agent of Lessee, or by reason of the damage to or destruction of any property, including property owned by Lessee or any person who is an employee or agent of Lessee, caused or allegedly caused by either (a) the condition of the Leased Premises or some building or improvement on the Leased Premises which is the responsibility of Lessee to maintain as provided herein, or (b) some act or omission on the Leased Premises of Lessee or any person in, on, or about the Leased Premises with the permission and consent of Lessee; (3) any work performed on the Leased Premises or materials furnished to the Leased Premises at the instance or request of Lessee or any person or entity acting for or on behalf of Lessee; or (4) Lessee's failure to comply with any requirement of law or any requirement imposed on Lessee or the Leased Premises by any duly authorized governmental agency or political subdivision, including but not limited to any requirement imposed on the Leased Premises by CT DEEP with respect to Lessee's use or occupancy of the Leased Premises.

13.2 Indemnity by Owner. Owner shall defend, indemnify and hold Lessee, and Lessee's directors, officers, members, shareholders and partners, harmless from and against all Defaults and misrepresentations by Owner (subject to applicable cure periods) and all liability and claims of liability, for damage to property or death of or injury to persons resulting from the activities of Owner and Owner's agents on or about the Leased Premises or related to the prior use of the Leased Premises as a landfill independent of Lessee's Solar Operations, or any other aspect arising out of Lessee's use or occupancy of the Leased Premises; except to the extent that such liability or loss is due to the negligence or willful misconduct by Lessee or Lessee's agents.

13.3 Hazardous Materials. Lessee shall not violate, and shall indemnify Owner against any claims, costs, damages, losses, fees or penalties arising from a violation by Lessee or Lessee's agents of, any federal, state or local law, ordinance, order, or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any substance, material or waste which was or is introduced, released, or brought onto the Leased Premises which was or is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state or local laws or regulations ("**Hazardous Substance**"), on or under the Leased Premises arising from or related to activities of Lessee or Lessee's agents. Such indemnity by Lessee shall not include any liability relating to, or arising out of, Owner's activities on or upon the Leased Premises (or its contractors, agents or any permitted parties) whether now or in the future, or the existence on or under the Leased Premises of Hazardous Substances as of the Effective Date to the extent such existing Hazardous Substances are not disturbed or impacted by Lessee or Lessee's agents.

13.4 Survival of Indemnity Provisions. The obligations of the Parties under this Section 13 shall survive the expiration or earlier termination of this Ground Lease.

14. Termination.

14.1 Lessee's Termination Rights During Construction Term. Lessee may terminate this Ground Lease, at its option, after giving not less than thirty (30) days' notice to Owner, if:

(a) Any governmental agency denies a request by Lessee for or revokes a permit, license, or approval that is required for Lessee to construct or operate the Solar Operations on the Leased Premises;

(b) Lessee determines that technical problems, which problems cannot reasonably be corrected, preclude Tenant from using the Leased Premises for its intended purpose;

(c) Lessee determines that Lessee does not have acceptable and legally enforceable means of ingress and egress to and from the Leased Premises;

(d) Utilities necessary for Lessee's use of the Leased Premises are not available to the Leased Premises; or

(e) The Leased Premises are damaged or destroyed to an extent that prohibits or materially interferes with Lessee's use of the Leased Premises.

In the event of termination by Lessee pursuant to this provision, Lessee shall be relieved of all further liability hereunder except its obligation to deliver the Restoration Security, as defined in Section 15.3 below, to Owner, and remove its Solar Operations, as provided in Section 15 herein. Any Ground Lease Payments paid prior to said termination date shall be retained by Owner.

14.2 Lessee's Termination Rights During Operational Term.

(a) Subject to the provisions set forth in Section 14.2(b) below, at any time during the Operational Term, including as it may be extended by the First Renewal Term or Second Renewal Term, Lessee may terminate this Ground Lease and Lessee's obligations thereunder by delivering to Owner written notice of termination effective on a date provided in the notice by which date Lessee shall pay any due and unpaid Ground Lease Payments for the Lease Year during which termination occurs, together with any applicable Termination Fee, as defined below, and Lessee shall not be entitled to any refund of Ground Lease Payments paid for that Lease Year. Upon termination pursuant to this Section 14.2, Lessee shall perform its obligations under Section 15 herein, but shall have no further liability to Owner (except such obligations which, by the provisions herein, expressly survive the termination of this Ground Lease).

(b) Lessee's right to terminate this Ground Lease as provided in Section 14.2(a) above is subject to the following:

(i) Prior to such termination (notwithstanding when such termination is to occur), Lessee shall have delivered the Restoration Security, as defined in Section 15.3 below, to Owner, and

(ii) [TO BE NEGOTIATED] [If such termination is to be effective prior to the ____ (____th) anniversary of the Effective Date, Lessee shall pay Owner a termination fee equal to \$_____. If such termination is to be effective after the ____ (____th) anniversary of the Effective Date, Lessee shall pay Owner a termination fee equal to \$_____. Any such termination fee payable by Lessee as provided under this Section 14.2(b)(ii) is the “**Termination Fee**”.]

14.3 Lessee’s Termination Rights after the Operational Term. At the end of the Operational Term or any First Renewal Term or Second Renewal Term, Lessee shall have the right to terminate the Ground Lease at any time by providing written notice to the Owner. Upon termination pursuant to this Section 14.3, Lessee shall perform its obligations under Section 15 herein, but shall have no further liability to Owner (except such obligations which, by the provisions herein, expressly survive the termination of this Ground Lease).

14.4 Owner’s Termination Rights. Except as qualified by Section 18 and Section 19, Owner shall have the right to terminate this Ground Lease Agreement if (a) a material default in the performance of Lessee’s obligations under this Ground Lease Agreement shall have occurred and remains uncured, (b) Owner simultaneously notifies Lessee and all Lenders and Assignees in writing of the default, which notice sets forth in reasonable detail the facts pertaining to the default and specifies the method of cure, and (c) the default shall not have been remedied within sixty (60) days after Lessee, or within one hundred and twenty (120) days in the case of all Lenders or Assignees, receive the written notice; or, if cure will take longer than sixty (60) days for Lessee or one hundred and twenty (120) days for any Lenders or Assignees, and the Lessee, or Lender or Assignee on Lessee’s behalf, has not begun diligently to undertake the cure within the relevant time period.

14.5 Effect of Termination. Upon termination of this Ground Lease Agreement, Lessee shall, upon written request by Owner, execute and record a quitclaim deed to Owner of all of Lessee’s right, title and interest in and to the Property.

15. Surrender and Restoration.

15.1 Surrender. Upon any termination as provided in Section 14 hereof, or abandonment as provided in Section 16.2(e) hereof, or expiration of this Ground Lease, Lessee shall remove all of Lessee’s Solar Operations as provided in Section 15.2 hereof, and shall peaceably deliver up to Owner possession of the Leased Premises, and other rights granted by this Ground Lease, and shall execute, at Owner’s request, any and all documents needed to record or evidence such termination with the appropriate governmental agency.

15.2 Restoration. Within six (6) months after any termination as provided in Section 14 hereof, or abandonment as provided in Section 16.2(e) hereof, or expiration of this Ground Lease, Lessee at its sole cost and expense, shall decommission the Solar Operations, which shall include the removal of all above-grade facilities and foundations, which shall be included in the decommissioning

plan submitted to the Connecticut Siting Council. The decommissioning plan approved by the Connecticut Siting Council shall, at a minimum, incorporate the provisions of this Section 15.2 and shall be incorporated by reference herein. Lessee shall restore the surface of the Leased Premises, which has been disturbed or changed by Lessee to the condition similar to that as it existed at the inception of this Ground Lease and shall repair any damage to the Leased Premises as a result of any removal of Lessee's Solar Operations under this Section 15.2 ("**Restoration**"). Lessee, at its sole cost and expense, shall obtain all approvals from, or consents by, CT DEEP as necessary to perform the Restoration.

15.3 Security for Restoration. On or before the ____ (____th) anniversary of the Effective Date, or upon earlier termination of this Ground Lease by Lessee pursuant to Section 14.1 or 14.2 above, Lessee shall provide Owner with security sufficient to pay for Restoration costs in the form of a performance bond, letter of credit, or another form of financial security acceptable to the Owner in its reasonable discretion to ensure the availability of funds for such costs (the "**Restoration Security**"). The Restoration Security shall be maintained in effect by Lessee (including renewals, replacements and extensions) for the remainder of the Term of this Ground Lease. The amount of the financial security for Restoration work will be based on [TO BE NEGOTIATED]. In the event any federal, state, county, or local governmental authority with jurisdiction over the Solar Operations or the Leased Premises requires bonding or other security securing the Restoration, then Lessee's satisfaction of those requirements shall satisfy all bonding or other security requirements under this Section 15.3.

16. Default.

16.1 Event of Default by Owner. Any of the following events shall constitute an "**Event of Default**" by Owner:

(a) The failure or omission by Owner to observe, keep, or perform any of the material terms set forth herein, and such failure continues for more thirty (30) days after a written notice from Lessee to Owner; provided that if such breach cannot be cured within such thirty (30) day period, then Owner shall have an additional period of sixty (60) days to cure such breach, provided such cure was commenced within the aforesaid thirty (30) day period and thereafter prosecuted with due diligence. Such additional cure period shall not apply to any default which can be cured by the payment of money.

(b) Fraud or intentional misrepresentation by Owner with respect to any provision in this Ground Lease.

16.2 Event of Default by Lessee. Any of the following events shall constitute an "**Event of Default**" by Lessee:

(a) The failure or omission by Lessee to pay any amount due hereunder or any item of the Ground Lease Payments, or any part thereof, when the same shall become due and payable and such failure shall continue for ten (10) days after notice of such default from Owner to Lessee.

(b) The failure or omission by Lessee to observe, keep, or perform any of the material terms set forth herein, and such failure continues for more thirty (30) days after a written

notice from Owner to Lessee; provided that if such breach cannot be cured within such thirty (30) day period, then Lessee shall have an additional period of sixty (60) days to cure such breach, provided such cure was commenced within the aforesaid thirty (30) day period and thereafter prosecuted with due diligence. Such additional cure period shall not apply to any default which can be cured by the payment of money.

(c) Fraud or intentional misrepresentation by Lessee with respect to any provision in this Ground Lease.

(d) The Lessee (i) is dissolved other than pursuant to a merger, (ii) becomes insolvent; (iii) makes a general assignment 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 ninety (90) 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; or (vii) has a secured party take possession of all or substantially all of its assets. None of the foregoing circumstances shall be grounds for terminating this Ground Lease as long as all Ground Lease Payments and any other monetary charges payable by Lessee under this Lease are promptly paid by Mortgagee in accordance with the terms of this Ground Lease.

(e) Abandonment of the Leased Premises by Lessee for a period of one hundred twenty (120) consecutive days; ***provided, however,*** so long as Lessee is paying the Ground Lease Payments and is not otherwise in default under this Ground Lease beyond any applicable notice and grace period, Lessee shall not be deemed to have abandoned the Leased Premises even if Lessee has ceased its Solar Operations at the Leased Premises.

17. Remedies.

17.1 General Remedies. Subject to the other terms and conditions of this Ground Lease Agreement, each party shall have all rights and remedies available at law and in equity for any breach of this Ground Lease Agreement by the other party.

17.2 Non-defaulting Party options. Subject to the applicable notice and cure provisions of the Ground Lease, including any rights of a Mortgagee as provided in Section 19 hereof, if at any time an Event of Default has occurred and is continuing, the non-defaulting Party, without limiting any rights or remedies available to it at law or in equity under this Ground Lease Agreement, shall have the right, but shall not be obligated to

(a) terminate this Lease by providing written notice of such termination to the defaulting Party; or

(b) remedy such default for the account of the defaulting Party after the non-defaulting Party notifies the defaulting Party of its intention to remedy the default; ***provided,***

however, that Owner shall not perform any maintenance or repair of the Solar Operations except in the case of emergency. All costs reasonably incurred by the non-defaulting Party to remedy such default shall be at the expense of the defaulting Party.

18. Assignment.

18.1 Assignment with Consent by Owner. Except as provided in this Ground Lease Agreement, the Lessee shall not have the right to assign or transfer, whether voluntarily or by operation of law, any of its rights, duties or obligations under this Ground Lease Agreement without the prior written consent of the Owner, which consent shall not be unreasonably withheld, conditioned or delayed.

18.2 Permitted Assignment by Lessee. Notwithstanding anything to the contrary herein, the Lessee may assign its rights and obligations hereunder without the need of any consent by Owner, (i) to one or more Affiliates (as defined below) or (ii) to any person or entity succeeding to all or substantially all of the assets of Lessee; provided such person or entity has a net worth equal to or greater than that of Lessee and has, or will contract with contractors who have, sufficient professional experience, operational capabilities and financial integrity and capacity to construct, operate and maintain the System and fulfill the other obligations of Lessee hereunder. In the event of any such assignment, Lessee shall provide advance written notice to the Owner of the existence of such assignment, together with the name and address of the assignee, and documentation establishing that the assignee has assumed (or as of the closing of such transaction will assume) all Lessee's rights and all of the Lessee's obligations under this Ground Lease Agreement. Owner agrees, at Lessee's sole cost and expense, promptly to execute any document reasonably requested in acknowledgement of such assignment and in consent thereto in accordance with the provisions hereof. Subject to the foregoing restrictions on assignment, this Ground Lease Agreement will inure to the benefit of, and be binding upon, the parties and their respective successors and permitted assigns. For purposes hereof, "**affiliate**" means any entity which, directly or indirectly, controls or is under common control with Lessee; "**control**" (including, with its correlative meanings, "controlled by" and "under common control with") means possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

18.3 Financing Provisions. Notwithstanding any contrary provisions contained in this Ground Lease Agreement, including without limitation Sections 18.1 and 18.2, Owner specifically agrees (i) without any further request for prior consent but with advance written notice to Owner, to permit Lessee to mortgage, collaterally assign or otherwise encumber and grant a security interest in, all of Lessee's interest in this Ground Lease Agreement as collateral for the purpose of obtaining financing or refinancing in connection with the System, or any portion thereof, and (ii) to, at Lessee's sole cost and expense, sign any agreement reasonably requested by Lessee or its lenders to acknowledge and evidence such financing agreement.

19. Mortgagee's / Lender's Rights. Any holder, including any designee and assigns, or any other finance party ("**Mortgagee**" or "**Lender**") of any mortgage, collateral assignment or other encumbrance or security interest granted by Lessee in or to this Ground Lease, the leasehold estate

created hereby, or any of the other Solar Operations (each a “**Mortgage**” and collectively the “**Mortgages**”), upon delivery to the Owner of notice of its name and address, for so long as its Mortgage is in existence shall be entitled to the following protections which shall be in addition to those granted elsewhere in this Ground Lease:

19.1 Mortgagee’s Right to Possession, Right to Acquire, and Right to Assign. A Mortgagee shall have the absolute right (a) to assign its Mortgage; (b) to enforce its lien and acquire title to all or any portion of the Solar Operations by any lawful means; (c) to take possession of and operate all or any portion of the Solar Operations and to perform all obligations to be performed by Lessee under this Ground Lease, or to cause a receiver to be appointed to do so; and (d) to acquire all or any portion of the Solar Operations by foreclosure or by an assignment in lieu of foreclosure and thereafter effect an assignment in accordance with the terms of this Ground Lease. Upon acquisition of the interests of all or any portion of the Solar Operations by a Mortgagee or any other third party which acquires the interests, from or on behalf of the Mortgagee, in accordance with the terms of this Ground Lease, Owner shall recognize the Mortgagee or such other party (as the case may be) as Lessee’s proper successor, and this Ground Lease shall remain in full force and effect.

19.2 Right to Cure Defaults/Notice of Defaults. To prevent termination of this Ground Lease, each Mortgagee shall have the right, but not the obligation, at any time prior to termination of this Ground Lease, to perform any act necessary to cure any Event of Default by Lessee and to prevent the termination of this Ground Lease. As a precondition to exercising any rights or remedies as a result of any alleged Event of Default by Lessee, Owner shall give written notice of such Event of Default to each Mortgagee that has delivered to Owner notice of its name and address concurrently with delivery of such notice to Lessee, specifying in detail the alleged Event of Default and the required remedy. In the event Owner gives any such notice, the following provisions shall apply:

(a) Each such Mortgagee shall have the same amount of time to cure the Event of Default as is given to Lessee, plus an additional sixty (60) days; ***provided, however, that*** such sixty (60) day period shall be extended for the time reasonably required to complete such cure, including the time required for the Mortgagee to perfect its right to cure such default by obtaining possession of the Leased Premises (including possession by a receiver) or by instituting foreclosure proceedings, provided the Mortgagee acts with reasonable and continuous diligence. The Mortgagee shall have the absolute right to substitute itself for the Lessee and perform the duties of the Lessee under this Ground Lease Agreement for purposes of curing such defaults. The Owner expressly consents to such substitution, agrees to accept such performance, and authorizes the Mortgagee (or its employees, agents, representatives or contractors) to enter upon the Leased Premises to complete such performance with all the rights, privileges and obligations of the Lessee. The Owner shall not terminate this Ground Lease Agreement prior to expiration of the cure periods available to a Mortgagee as set forth herein.

(b) During any period of possession of the Mortgaged Interest by a Mortgagee (or a receiver requested by such Mortgagee) and/or during the pendency of any foreclosure proceedings instituted by a Mortgagee, the Mortgagee shall pay or cause to be paid the rent and all other monetary charges payable by Lessee or any Assignee which have accrued and are unpaid at the commencement of such period and those which accrue thereafter during such period. Following

acquisition of Lessee's or any Assignee's Mortgaged Interest by the Mortgagee or its assignee or designee as a result of foreclosure or assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, this Ground Lease Agreement shall continue in full force and effect and the Mortgagee or other party acquiring title to the leasehold estate shall, as promptly as reasonably possible, commence the cure of all other defaults hereunder and thereafter diligently process such cure to completion, whereupon Owner's right to terminate this Ground Lease Agreement based upon such defaults shall be deemed waived; provided, however, the Mortgagee or other party acquiring title to the leasehold estate shall not be required to cure those defaults which are not reasonably susceptible of being cured or performed by such party ("Non-Curable Defaults"). Non-curable defaults shall be deemed waived by Owner upon completion of foreclosure proceedings or acquisition of Lessee's or Assignee's interest in this Ground Lease Agreement by such party.

(c) Upon the sale or other transfer of the leasehold interests acquired pursuant to foreclosure or assignment in lieu of foreclosure, the Mortgagee or other acquiring party shall have no further duties or obligations hereunder.

(d) Neither the bankruptcy nor the insolvency of Lessee or any Assignee shall be grounds for terminating this Ground Lease Agreement as long as the rent and all other monetary charges payable by such Lessee or Assignee are paid by the Mortgagee in accordance with the terms of this Ground Lease Agreement.

(e) Nothing in this Ground Lease Agreement shall be construed to extend this Ground Lease Agreement beyond the Ground Lease Term or to require a Mortgagee to continue foreclosure proceedings after the default has been cured. If the default is cured and the Mortgagee discontinues foreclosure proceedings, this Agreement shall continue in full force and effect.

19.4 New Agreement to Mortgagee. If this Ground Lease Agreement terminates because of Lessee's default or if the Mortgaged Interest is foreclosed, or if this Ground Lease Agreement is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditors' rights, then Owner shall, upon written request from any Mortgagee, enter into a new lease of the Leased Premises, on the following terms and conditions:

(a) The terms of the new agreement shall commence on the date of termination, foreclosure, or rejection and shall continue for the remainder of the Ground Lease Term of this Ground Lease Agreement, at the same rent and subject to the same terms and conditions set forth in this Ground Lease Agreement.

(b) The new agreement shall be executed within thirty (30) days after receipt by Owner of written notice of the Mortgagee's election to enter a new agreement, provided said Mortgagee: (i) pays to Owner all rent and other monetary charges payable by Lessee, as applicable, under the terms of this Ground Lease Agreement up to the date of execution of the new agreement, as if this Ground Lease Agreement had not been terminated, foreclosed, rejected or disaffirmed; and (ii) perform all other obligations of Lessee under the terms of this Ground Lease Agreement, to the extent performance is then due and susceptible of being cured and performed by the Mortgagee; and (iii) agrees in writing to timely perform, or cause to be performed, all non-monetary obligations which have

not been performed by Lessee and would have accrued under this Agreement up to the date of commencement of the new agreement, except those obligations which constitute non-curable defaults as defined above; (iv) reimburses Owner for Owner's reasonable attorney fees incurred in reviewing the same. Any new agreement granted the Mortgagee shall enjoy the same priority as this Ground Lease Agreement over any lien, encumbrance or other interest created by Owner.

(c) At the option of the Mortgagee, the new agreement may be executed by a designee of such Mortgagee without the Mortgagee assuming the burdens and obligations of the Lessee thereunder.

(d) If more than one Mortgagee makes a written request for a new agreement pursuant hereto, the new agreement shall be delivered to the Mortgagee requesting such new lease whose Mortgage is prior in lien, and the written request of any other Mortgagee whose lien is subordinate shall be void and of no further force or effect. Owner shall be reimbursed all reasonable expenses incurred in determining whose Mortgage is prior in lien.

19.5 Mortgagee's Consent to Amendment, Termination or Surrender.

Notwithstanding any provision of this Ground Lease Agreement to the contrary, the parties agree that so long as there exists an unpaid Mortgage, this Ground Lease Agreement shall not be modified or amended and Owner shall not accept a surrender of the Leased Premises or any part thereof or a cancellation or release of this Ground Lease Agreement from Lessee prior to expiration of the Ground Lease Term without the prior written consent of the Mortgagee. This provision is for the express benefit of and shall be enforceable by such Mortgagee.

19.6 No Waiver. No payment made to Owner by any Mortgagee shall constitute an agreement that such payment was, in fact, due under the terms of this Ground Lease Agreement or a waiver of the Mortgagee's rights with respect to any wrongful, improper or mistaken notice or demand with respect to such payment.

19.7 No Merger. There shall be no merger of this Ground Lease Agreement, or of the Mortgaged Interests or other interests created by this Ground Lease Agreement, with the fee estate in the Property by reason of the fact that this Ground Lease Agreement or any such interests may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Property, and all persons (including Mortgagees) having an interest in or under this Ground Lease Agreement and any portion of the fee estate shall join in a written instrument effecting such merger and shall duly record the same.

19.8 Third Party Beneficiary. Each Mortgagee is and shall be an express third party beneficiary of the provisions of this Section, and shall be entitled to compel the performance of the obligations of Owner under this Ground Lease Agreement.

19.9 Further Amendments. Upon request, Owner shall (a) amend this Ground Lease Agreement to include any provision reasonably requested by a proposed Lender, provided such amendment does not materially impair Owner's rights or substantially increase the burdens or

obligations of Owner under this Ground Lease Agreement, and (b) execute such estoppel certificates (certifying as to such matters as Mortgagee may reasonably request, including, without limitation, that no default then exists under this Ground Lease Agreement, if such be the case) and other additional instruments reasonably requested by any Mortgagee to evidence the status of this Ground Lease Agreement and Mortgagee's rights under this Ground Lease Agreement.

20. Reserved.

21. Reserved.

22. Miscellaneous Provisions.

22.1 Force Majeure. If performance of this Ground Lease Agreement or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of "Force Majeure" (defined below), the affected party, upon giving notice to the other party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference. The affected party shall use its reasonable efforts to avoid or remove such causes of nonperformance and shall continue performance hereunder whenever such causes are removed. "Force Majeure" means fire, earthquake, flood or other casualty or accident; strikes or labor disputes; war, civil strife or other violence, any law, order, proclamation, regulation, ordinance, action, demand or requirement of any government agency or utility, or any other act or condition beyond the reasonable control of a party hereto. Either Party may terminate this Ground Lease Agreement if a Force Majeure condition persists for 180 days.

22.2 Notices.

(a) All notices, payments, and other communications to the Parties under this Agreement (each herein called a "**Notice**") must be in writing and be delivered by (a) certified or registered mail (return receipt requested), (b) personal delivery, (c) nationally recognized overnight courier service which provides written evidence of delivery, or (d) (excepting payment) confirmed facsimile or email with an original copy thereof sent to the recipient by one of the means described in clauses (a), (b) or (c) above no later than one (1) business day thereafter, in each case to the addresses below, or to such other addresses as the Parties may, by such notice, specify from time to time:

If to Owner: Town of Portland
 Attn: _____
 33 East Main Street
 Portland, CT 06480
 Tel: 860-XXX-XXXX
 Fax: 860-XXX-XXXX
 Email: XXXXXX@YYYYYY.GOV

If to Lessee: _____

Tel: AAA-BBB-CCCC
Fax: AAA-BBB-CCCC
Email: AAAAA@BBBBB.COM

(b) All Notices shall be deemed given upon the earlier of (i) actual receipt by the Party to whom the Notice is addressed; (ii) upon refusal to accept delivery by the Party to whom the Notice is addressed; or (iii) upon first attempted delivery if delivery cannot be completed due to a change in address of the intended Party without notice of such change of address having been given to the other Party as provided herein. The term "Business Day" as used herein shall mean any day that is not a Saturday, Sunday, or a day in which commercial banks in Hartford, Connecticut, are required or authorized by law to close.

(c) Any Notices may be delivered on behalf of either Party by such Party's counsel.

22.3 Waiver. The failure of a Party to insist on the strict performance of any provision of this Ground Lease Agreement or to exercise any right, power, or remedy upon a breach of any provision of this Ground Lease Agreement will not constitute a waiver of any provision of this Ground Lease Agreement or limit the Party's right to enforce any provision or exercise any right in the future.

22.4 Severability. If any section, subsection, term, or provision of this Ground Lease Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term, or provision of the Ground Lease Agreement, or the application of same to parties or circumstances other than those to which it was held invalid or unenforceable, shall not be affected thereby and each remaining section, subsection, term, or provision of this Ground Lease Agreement shall be valid or enforceable to the fullest extent permitted by law.

22.5 Modifications; Amendments. No modification or amendment of this Ground Lease Agreement is valid unless made in writing and executed by the Parties.

22.6 Governing Law/Attorney's Fees. This Ground Lease Agreement and any disputes arising out of this Agreement shall be governed by, and construed under, the laws of the State of Connecticut, without regard to principles of conflicts of law. Venue for any action to enforce or interpret this Ground Lease Agreement shall be Middlesex County, Connecticut. In the event of any action or proceeding to enforce a term or condition of this Ground Lease Agreement, any alleged disputes, breaches, defaults, or misrepresentations in connection with any provision of this Ground Lease Agreement or any action or proceeding in any way arising from this Ground Lease Agreement, the prevailing party in such action, or the non-dismissing party when the dismissal occurs other than by a settlement, shall be entitled to recover its reasonable costs and expenses, including without limitation reasonable attorneys' fees and costs of defense paid or incurred in good faith.

22.7 Consequential Damages Waiver. Except as provided in Section 13, the Parties shall have no liability for consequential damages arising from a breach of this Ground Lease Agreement.

22.8 Counterparts. This Ground Lease Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument.

22.9 Recording. Simultaneously with the execution hereof, Owner and Lessee will execute a memorandum of this Ground Lease Agreement in the form of Exhibit C attached hereto (the "Memorandum of Ground Lease"). Lessee may, at its expense, record such memorandum in the real property records of the Town of Portland, Connecticut.

22.10 No Partnership. Nothing contained in this Ground Lease Agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation or liability on or with regard to any one or more of the Parties to this Ground Lease Agreement.

22.11 Entire Agreement. This Ground Lease Agreement, including the attached Exhibits, contains the entire and final understanding of the Parties and supersedes all prior agreements and understandings between the Parties related to the subject matter of this Ground Lease Agreement.

22.12 Time for Performance. In the event any time period or due date set forth in this Agreement would otherwise fall on a Saturday, Sunday or holiday, such time period shall be automatically extended to the next business day.

22.13 Headings. The headings of sections and subsections are for convenient reference only and shall not be deemed to limit, construe, affect, modify, or alter the meaning of such sections or subsections.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, Lessee and Owner have caused this Ground Lease Agreement to be executed and delivered by their duly authorized representatives as of the Effective Date.

LESSEE:

By: _____

Name: _____

Title: _____

Date: _____

OWNER:

TOWN OF PORTLAND,
a duly constituted governmental authority

By: _____

Name: _____

Title: _____

Date: _____

Exhibits Included:

- Exhibit A: Property Description
- Exhibit B: Permitted Exceptions
- Exhibit C: Memorandum of Ground Lease

EXHIBIT A TO GROUND LEASE AGREEMENT

DESCRIPTION OF THE PROPERTY

The land referred to herein is situated in the Town of Portland, County of Middlesex, State of Connecticut, and is described as follows:

[To be completed by Lessee in coordination with the Town]

DRAFT FOR DISCUSSION

EXHIBIT B TO GROUND LEASE AGREEMENT
PERMITTED EXCEPTIONS AND ENCUMBRANCES

[To be completed by Lessee in coordination with the Town]

EXHIBIT C TO GROUND LEASE AGREEMENT

FORM OF MEMORANDUM OF GROUND LEASE AGREEMENT

REQUEST BY AND
WHEN RECORDED RETURN TO:

[Developer Name]
[Developer Address]
Attn: [Developer]

APN:

(Space above this line for Recorder's use only)

MEMORANDUM OF SOLAR ENERGY FACILITY GROUND LEASE

THIS MEMORANDUM OF SOLAR ENERGY FACILITY GROUND LEASE (this "Memorandum") is dated as of _____, 2021 (the "**Effective Date**"), by and between the **TOWN OF PORTLAND**, a municipal corporation existing under and by virtue of the laws of the State of Connecticut (the "**Owner**"), and **[DEVELOPER]**, a [State, corporate form] (the "**Lessee**").

A. Lessee and owner entered into a certain Ground Lease Agreement For Solar Energy Facility dated as of the date hereof (the "**Ground Lease Agreement**"), which by its terms grants to Lessee a lease for the premises which are more particularly described in Attachment A attached hereto and incorporated by this reference (the "**Leased Premises**").

B. Owner and Lessee have executed and acknowledged this Memorandum for the purpose of providing record notice of the Ground Lease Agreement.

C. Capitalized terms used but not otherwise defined in this Memorandum shall have the meanings assigned to them in the Ground Lease Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and sufficient consideration, the receipt and sufficiency of which is hereby acknowledged, Owner and Lessee provide record notice of the following:

1. **Term.** Lessee has a leasehold interest in and certain rights and servitudes on, over, and across the Leased Premises, for a term commencing upon the execution of the Ground Lease Agreement, including all renewal terms, of at least thirty (30) years.

2. **No Conflict.** In the event of any conflict or inconsistency between the provisions of this Memorandum and the provisions of the Ground Lease Agreement, the provisions of the Ground Lease Agreement shall control. Nothing in this Memorandum shall be deemed to amend, modify, change,

DRAFT FOR DISCUSSION

alter, amplify, limit, interpret or supersede any provision of the Ground Lease Agreement or otherwise limit or expand the rights and obligations of the parties under the Ground Lease Agreement.

3. Address of Owner. The address of the Owner is 33 East Main Street, Portland, Connecticut 06480.

4. Address of Lessee. The address of the Lessee is _____.

5. Ground Lease Agreement on File with Owner and Lessee. Copies of the executed Ground Lease Agreement are on file with the Owner and Lessee.

6. Counterparts. This Memorandum may be executed in counterparts, which together shall constitute a single instrument.

IN WITNESS WHEREOF, Owner and Lessee have caused this Memorandum to be executed and delivered by their duly authorized representatives as of the Effective Date.

WITNESSES:

OWNER:
TOWN OF PORTLAND

Name:

By: _____

Name:
Title:

Name:

WITNESSES:

LESSEE:
[DEVELOPER]

Name:

By: _____

Name:
Title:

Name:

DRAFT FOR DISCUSSION

STATE OF CONNECTICUT)
) ss. _____, _____, 2021
COUNTY OF _____)

Personally appeared _____, _____ of TOWN OF PORTLAND, a municipal corporation existing under and by virtue of the laws of the State of Connecticut, signer and sealer of the foregoing instrument, and acknowledged the same to be his/her free act and deed as such Officer and the free act and deed of said municipal corporation, before me.

Name:
Commissioner of the Superior Court
Notary Public
My Commission Expires: _____

STATE OF CONNECTICUT)
) ss. _____, _____, 2021
COUNTY OF _____)

Personally appeared _____, _____ of [DEVELOPER], a [State] limited liability company, signer and sealer of the foregoing instrument, and acknowledged the same to be his/her free act and deed as such Officer and the free act and deed of said limited liability company, before me.

Name:
Commissioner of the Superior Court
Notary Public
My Commission Expires: _____

ATTACHMENT A TO MEMORANDUM OF GROUND LEASE AGREEMENT

DESCRIPTION OF THE PROPERTY

The land referred to herein is situated in the Town of Portland, County of Middlesex, State of Connecticut, and is described as follows:

[To be completed by Lessee in coordination with the Town]