

**MASTER POWER PURCHASE AGREEMENT**

Between

**THE STATE OF CONNECTICUT**

Acting by its

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

And

**CONNECTICUT GREEN BANK**

## MASTER POWER PURCHASE AGREEMENT

THIS MASTER POWER PURCHASE AGREEMENT (the “*Master PPA*”) is between Connecticut Green Bank, a Connecticut quasi-public agency having a place of business at 845 Brook Street, Rocky Hill, CT 06067 (“*Seller*”), acting by \_\_\_\_\_, its \_\_\_\_\_ and the State of Connecticut, Department of Administrative Services (“*Buyer*”), with a principal place of business at 450 Columbus Boulevard, Hartford, Connecticut 06103, acting by Paul Greco, its Contract Specialist, in accordance with Sections 4a-2 and 4a-51 of the Connecticut General Statutes dated as of [ ], 201[ ] (the “*Effective Date*”), ~~in accordance with Sections 4a-2 and 4a-51 of the Connecticut General Statutes.”~~ Buyer and Seller may individually be referred to as a “**Party**”, or collectively as the “**Parties**”.

**WHEREAS**, the Buyer is authorized and empowered under the laws of the State of Connecticut to procure the services described herein on behalf of the State;

**WHEREAS**, the Parties hereto desire that the Seller from time to time sell Energy (as defined below), produced by SEFs (as defined below), to Buyer in accordance with the terms and conditions set forth below in this Master PPA;

**WHEREAS**, it is the intention of the Parties that the Seller with respect to each SEF, shall control the manner and use of such SEF, with the Buyer purchasing all of the Energy produced by such SEF, all in accordance with the following terms; and

**WHEREAS**, the sale or particular Energy shall be implemented through the execution of Site Specific PPAs (as defined below), and for the purpose of construing a transaction as an integrated agreement, without limitation, for the purposes of ARTICLE 8 and 9 hereof, including this Master PPA and each Site Specific PPA shall be considered an Agreement (as defined below) and a single transaction.

**NOW THEREFORE**, in consideration of these presents, and for other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

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

**1.1 Definitions.** The definitions provided below and elsewhere in this Master PPA will apply to the defined terms used in this Master 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 agreement or otherwise.

(b) “*Agreement*” or “*Agreements*” means this Master PPA and each Site Specific PPA, as the same may be amended or modified from time to time, including the accompanying attachments and documents relating to such Site Specific PPA, which shall constitute a fully integrated transaction existing in accordance with its own terms and conditions separate from and independent of all other transactions pursuant to this Master PPA.

(c) **“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.

(d) **“Buyer”** shall have the meaning ascribed to it in the Preamble.

(e) **“Buyer Act”** shall have the meaning ascribed to it in **Section 8.1**.

(f) **“Buyer Event of Default”** has the meaning ascribed thereto in **Section 9.3**.

(g) **“Business Day”** means any day except a Saturday, Sunday, State of Connecticut holiday, or a Federal Reserve Bank holiday.

(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 SEF, intended to value any aspect of the capacity of the SEF to produce Energy or ancillary services, which may be counted toward any measure, regulation, requirement, or program of Client Agency’s Serving 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 8.3**.

(k) **“Client Agency’s Serving Utility”** shall have the meaning ascribed to it in the applicable Site Specific PPA.

(l) **“Claims”** All actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.

(m) **“Client Agency”** or **“Client Agencies”** means any department, commission, board, bureau, agency, institution, public authority, office, council, association, instrumentality or political subdivision of the State of Connecticut, as applicable, who is authorized and chooses to make purchases under, and pursuant to the terms and conditions of, this Master PPA by entering into a Site Specific PPA with the Parties.

(n) “**Commercial Operation**” will begin on the day in which the entire SEF is mechanically complete, operating on a sustained basis and Seller is in receipt of all required approvals, signoffs and permits from any and all Governmental Entities and the Client Agency’s Serving Utility for the production and sale of Energy (including the resale of Energy to Client Agency’s Serving Utility).

(o) “**Commercial Operation Date**” means the date upon which the applicable SEF begins Commercial Operation, as set forth in the Notice of Commercial Operation associated with such SEF.

(p) “**Construction Target**” shall have the meaning in each Site Specific PPA.

(q) “**Controlling Entity**” shall have the meaning ascribed to it in Section 4.7.

(r) “**Defaulting Party**” shall have the meaning ascribed to it in Section 9.1.

(s) “**Confidential Information**” This shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that Buyer classifies as “confidential” or “restricted.” Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.

(t) “**Confidential Information Breach**” This shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the Seller, Buyer or State.

(u) “**Delivery Point**” means the interconnection points on the applicable Property behind the meters installed by Client Agency’s Serving Utility and before the electrical systems serving such Property. No other delivery points are permitted under this Master PPA or the applicable Site Specific PPA without the permission of the applicable Client Agency.

(v) “**Discounted Revenue Forecast**” means the sum of the present values calculated at the per annum rate of interest equal to four percent (4%) of the ~~following~~Energy Revenue Forecast and Environmental Attributes Revenue Forecast amounts for each year (or part thereof) remaining between the early termination date and the end of the Term: ~~(i) the applicable Energy Payment Rate for such year, if known, or a mutually agreed estimate of the Energy Payment Rate for such year, multiplied by (ii) the average annual output of the applicable SEF during the previous three (3) years.~~

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

~~(x)~~~~(w)~~ **“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 SEF.

~~(y)~~~~(x)~~ **“Energy”** means electric energy (alternating current, expressed in kilowatt-hours) generated by the applicable SEF. Energy does not include any attendant Environmental Attributes, Tax Benefits or Capacity Attributes.

~~(y)~~ **“Energy Revenue Forecast”** means for any SEF and for any year (or part thereof) the product of: (i) the applicable Energy Payment Rate for such year, multiplied by (ii) the average annual output, or applicable part thereof, of the applicable SEF during the previous three (3) years, if known, or if not known, then the expected average annual output, or applicable part thereof, of the applicable SEF.

(z) **“Energy Payment Rate”** shall have the meaning ascribed to it in each Site Specific PPA.

(aa) **“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 of Connecticut or in other jurisdictions (collectively, **“Allowances”**) attributable to the ownership or operation of the SEF 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 and in which Seller has good and valid title, including any credits to be evidence by Solar 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~~ 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. ~~Environmental Attributes shall also include,~~ (v) Tax Benefits and (vi) Capacity Attributes.

~~(bb)~~ **“Environmental Attributes Revenue Forecast”** means for any SEF and for any year (or part thereof) the product of: (i) the value of Environmental Attributes and Capacity Attributes applicable for such year, such value determined based on the greater of either the value at which Seller had contracted to sell those Environmental Attributes and Capacity Attributes or the spot market value, multiplied by (ii) the average annual production, or applicable part thereof, of Environmental Attributes and Capacity Attributes associated with the applicable SEF during the previous three (3) years, if known, or if not known, then the expected average annual production, or applicable part thereof, of the Environmental Attributes and Capacity Attributes associated with the applicable SEF.

~~(bb)~~~~(cc)~~ **“Environmental Conditions”** means (i) the violation or alleged violation of any Environmental Law at or on the Premises; (ii) the release or potential release of any Hazardous Material at, on or from the Premises, unless such Hazardous Material was brought onto the Premises by Seller or its Representatives; and/or (iii) any other environmental matter adversely affecting the Premises that was not directly caused by Seller or its Representatives~~;~~.

~~(ee)~~~~(dd)~~ **“Environmental Law”** means any federal, state or local law, regulation, ordinance or other requirement governing human health and/or the environment.

~~(dd)~~~~(ee)~~ **“Event of Default”** shall have the meaning ascribed to it in Section 9.1.

~~(ee)~~(ff) “**Exercise Period**” shall have the meaning ascribed to it in Section 4.10.

~~(ff)~~(gg) “**Expected System Output**” shall have the meaning ascribed to it in each Site Specific PPA.

~~(gg)~~(hh) “**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 SEFs; (ii) for working capital or other ordinary business requirement of the SEFs (including but not limited to the maintenance, repair, replacement or improvement of the SEFs); (iii) for any development financing, bridge financing, credit enhancement, credit support or interest rate protection in connection with the SEFs; (iv) for the Seller’s operation of the SEFs; or (v) for the purchase of the SEFs and related rights and obligations of Seller.

~~(hh)~~(ii) “**FOIA**” shall have the meaning ascribed to it in Section 16.18.

~~(ii)~~(jj) “**Force Majeure**” means any event or circumstance that prevents a Party from performing its obligations under this Master PPA or any Agreement, 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~~. **Force Majeure** 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, fires, explosions, floods, interruption of transportation, embargoes, or other causes of a similar nature. Force Majeure will not be based on (i) Buyer’s inability economically to use Energy purchased hereunder or by for such Energy, or (ii) Seller’s ability to sell Environmental Attributes or Capacity Attributes at any price or Energy at a price greater than the price of Energy under this Master PPA or any Agreement.

~~(jj)~~(kk) “**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 SEFs, the production and delivery of Energy, and Environmental Attributes, or any other transactions or matter contemplated by this Master PPA or any Agreement (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

~~(kk)~~(ll) “**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, this Master PPA, or any Agreement.

~~(ll)~~(mm) “**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.

~~(mm)~~(nn) “**Hazardous Material**” means any substance or material regulated by or listed in any Environmental Law.

~~(nn)~~(oo) “ITC Credit” means (i) the energy credit under Section 48 of the Internal Revenue Code of 1986, and (ii) the grant under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009, as each may be amended, supplemented, extended or replaced from time to time, and including all successor enactments or legislation relating thereto.

~~(oo)~~(pp) “Independent Appraiser” shall have the meaning ascribed to it in Section 4.10.

~~(pp)~~(qq) “Interconnection Agreement” means the agreement for interconnection of the applicable SEF with the distribution system of the applicable Client Agency’s Serving Utility.

~~(qq)~~(rr) “Interconnection Equipment” means that portion of the applicable SEF, 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 applicable SEF to the applicable Property or to applicable Client Agency’s Serving Utility.

~~(rr)~~(ss) “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 proceeding day on which published), plus 2%, or (ii) the maximum rate permitted by applicable Law.

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

~~(tt)~~(uu) “License” shall have the meaning ascribed to it in Section 6.1(b).

~~(uu)~~(vv) “License Term” shall have the meaning ascribed to it in Section 6.1(b).

~~(vv)~~(ww) “Lost Seller Revenue” means the sum of (A) the product of the Energy Payment Rate ~~times and~~ the quantity of Energy that the SEF is or will be prevented from generating or delivering to, or that is not or will not be accepted at, the Delivery Point to the extent caused by Buyer Act and (B) the product of the amount of Environmental Attributes and Capacity Attributes associated with the energy that was not or could not be generated or delivered due to Buyer Act ~~and times~~ the price that Seller is or would ~~be receiving have received~~ for Environmental Attributes and Capacity Attributes that are generated by the SEF. Lost Seller Revenue does not include Energy that (i) the SEF is prevented from generating or delivering to, or that is not accepted at, the Delivery Point to the extent not caused by Buyer Act. In determining Lost Seller Revenue for which Buyer is obligated to pay Seller, the Parties shall ~~consider account for~~ historical performance, (if available), projected output degradation, and the provisions set forth in Section 7.2.

~~(ww)~~(xx) “Master PPA” means this Master Power Purchase Agreement.

~~(xx)~~(yy) “Meter” shall have the meaning ascribed to it in Section 7.4.

~~(yy)~~(zz) “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.

~~(zz)~~(aaa) “Minimum Energy Output Requirements” shall have the meaning ascribed to it in Section 4.6.

~~(aaa)~~~~(bbb)~~ “**Non-Defaulting Party**” shall have the meaning ascribed to it in Section 9.1(a).

~~(bbb)~~~~(ccc)~~ “**Notice of Commercial Operation**” shall have the meaning ascribed to it in Section 2.3.

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

~~(ddd)~~~~(eee)~~ “**Permitted Transfer**” shall have the meaning ascribed to it in Section 14.1(b).

~~(eee)~~~~(fff)~~ “**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.

~~(fff)~~~~(ggg)~~ “**Premises**” shall have the meaning ascribed to it in each Site Specific PPA.

~~(ggg)~~~~(hhh)~~ “**Price Determination**” shall have the meaning ascribed to it in Section 4.10.

~~(hhh)~~~~(iii)~~ “**Property**” shall have the meaning ascribed to it in each Site Specific PPA.

~~(iii)~~~~(jjj)~~ “**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~~**Practices** 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 Master PPA.

~~(jjj)~~~~(kkk)~~ “**Purchase Option**” shall have the meaning ascribed to it in Section 4.9.

~~(kkk)~~~~(lll)~~ “**Purchase Option Dates**” shall have the meaning ascribed to it in Section 4.9.

~~(lll)~~~~(mmm)~~ “**Purchase Price**” shall have the meaning ascribed to it in Section 4.19.

~~(mmm)~~~~(nnn)~~ “**Qualified Assignee**” means as it pertains to any assignment of this Master 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 SEF and is financially capable of performing Seller’s obligations under this Master PPA, all as reasonably demonstrated to Buyer, and agrees in writing to assume Seller’s duties and obligations under the Master PPA.

~~(nnn)~~~~(ooo)~~ “**Records**” means all working papers and such other information and materials as may have been accumulated by Seller in performing the Master PPA, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries, memoranda and correspondence, kept or stored in any form.

~~(ooo)~~~~(ppp)~~ “**Representatives**” means, in respect of a Person, the officers, directors, members, managers, partners, officers, principal officers, consultants, employees, agents, advisors, contractors, subcontractors, servants or other representatives of such Person.



~~(ppp)~~(qqq) “**SEF**” or “**SEFs**” means a solar electric generating facility that produces the Energy sold and purchased under this Master PPA as more particularly described in the applicable Site Specific PPA, including the Interconnection Equipment associated with such facility.

~~(qqq)~~(rrr) “**SEF Assets**” means each and all of the assets of which the SEF is comprised, including Seller’s solar energy panels, mounting systems, carports, tracking devices, inverters, integrators and other related equipment and components installed on the Premises, 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 SEF.

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

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

~~(ttt)~~(uuu) “**Seller Event of Default**” has the meaning ascribed thereto in Section 9.2.

~~(uuu)~~(vvv) “**Seller Termination Default**” has the meaning ascribed thereto in Section 9.2.

~~(vvv)~~(www) “**Site Electrical System**” means Buyer’s existing electrical system for the supply and distribution of electricity to the Property, which system is interconnected with Client Agency’s Serving Utility.

~~(www)~~(xxx) “**Solar Renewable Energy Certificates**” or “**SRECs**” means the certificate representing the environmental attributes associated with Energy, as developed under the oversight and regulations of the State of Connecticut Public Utilities Regulatory Authority, including any modifications or revisions thereof adopted by such regulator or any successor agency.

~~(xxx)~~(yyy) “**State**” The State of Connecticut, including Buyer, any Client Agency and any office, department, board, council, commission, institution or other agency of the State.

~~(yyy)~~(zzz) “**Site Specific PPA**” or “**Site Specific PPAs**” means a Site Specific Power Purchase Agreement, substantially in the form ~~of attached~~ hereto ~~attached as~~ Exhibit A, associated with each SEF together with the applicable License and all other applicable documents ~~and~~ entered into by the Parties and a Client Agency.

~~(zzz)~~(aaaa) “**Substitute Premises**” has the meaning ascribed thereto in Section 4.7(b).

~~(aaaa)~~(bbbb) “**Substitution Notice Period**” has the meaning ascribed thereto in Section 4.7(b).

~~(bbbb)~~(cccc) “**Tax Benefits**” means ITCs attributable to the SEF or Energy (including the ITC Credit), accelerated depreciation attributable to the SEF or any SEF Asset, and any other tax credit or tax write-offs allowed under applicable law attributable to the SEF or Energy, 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.

~~(eeee)~~(dddd) “**Term**” means, with respect to any Agreement, the term specified in the applicable Site Specific PPA in accordance with Article 2 hereof.

~~(ddd)(eee)~~ **“Terminate” or “Termination”** an end to an Agreement prior to the end of its Term whether effected pursuant to a right which the Master PPA creates or for a breach.

~~(eee)(fff)~~ **“Termination Payment”** means an amount, calculated by Seller, in regard to any Agreement, equal to the sum of (i) Discounted Revenue Forecast applicable through the end of the Term, ~~as the case may be, (ii) the value of Environmental Attributes and Capacity Attributes relating thereto, such value determined based on the greater of the value at which Seller had contracted to sell those Environmental Attributes and Capacity Attributes or the spot market value, and (iii) and (ii)~~ the value of any lost Tax Benefits.

~~(fff)(ggg)~~ **“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.

~~(ggg)(hhh)~~ **“Transaction”** means any transaction between the Parties under the terms of this Master PPA.

~~(hhh)(iii)~~ **“Utility Requirements”** means any protocols, procedures, or guidelines which apply to the SEF and are implemented, required or otherwise adopted by Client Agency’s Serving Utility.

## **ARTICLE 2. GENERAL; TERM**

### **2.1 General.**

(a) This Master PPA is a written understanding between Buyer and Seller containing contract clauses applying to future Agreements between Buyer, Seller and Client Agencies. This Master PPA contemplates separate future Agreements that will incorporate by reference and attach the requirements, applicable clauses and documents agreed to herein and incorporated by reference.

(B) Reference to any defined term herein which is associated with the SEF and a Site Specific PPA (including, but not limited to, SEF Assets, Energy, Energy Payment Rate, Delivery Point, Premises, Property, Meter, Metering Device, License, Commercial Operation Date etc.) shall refer to such term in the context of the applicable SEF and Site Specific PPA.

**2.2 Commencement of Term.** The Term applicable to any Site Specific PPA shall commence on the date specified in such Site Specific PPA and shall terminate as provided in Section 2.3.

**2.3 Termination of Term.** The Term applicable to any Site Specific PPA will terminate (except as otherwise provided in ~~Section~~Sections 9.1(c), 9.1(d), 12.5, 2.4 hereof ) upon the earliest to occur of any of the following events:

- (a) the ~~twentieth (20th)~~twenty-fifth (25th) year anniversary of the Commercial Operation Date; or
- (b) the payment by Buyer of the Purchase Price for the SEF; or
- (c) the termination of this Master PPA pursuant to its terms; or
- (d) the termination of the applicable Site Specific PPA pursuant to its terms; or

(e) the payment by Buyer of all payment obligation with respect to such Site Specific PPA, including, but not limited to, any Seller Lost Revenue and Termination Payment.

**2.4 Option to Extend Term.** Prior to the expiration of the Term, Buyer shall have the right, exercisable in Buyer's sole discretion, to negotiate in good faith, exclusively with Seller, for no more than ~~a~~ sixty (60) days, the terms of the extension of the applicable Site Specific PPA. If Buyer wishes to enter into such negotiation, Buyer shall notify Seller of such decision at least one year prior to the expiration of the Term and such negotiations shall commence at least eleven months prior to the expiration of the Term. Seller shall supply, in a timely manner, information regarding the SEF which is customary to allow Buyer to perform due diligence and to negotiate in good faith for the extension of the Site Specific PPA.

### ARTICLE 3.

#### FACILITY DEVELOPMENT AND OPERATION

##### 3.1 Construction Targets.

(a) Seller shall develop each SEF in accordance with the Construction Targets set forth in each associated Site Specific PPA.

(b) Seller shall provide Buyer with written notice of the achievement of each Construction Target within seven (7) days after that achievement, which notice shall include information demonstrating with reasonable specificity that such Construction Targets has been achieved. Seller acknowledges that Buyer requires such written notice solely for monitoring purposes, and that nothing set forth in this Master PPA shall create or impose upon Buyer any responsibility or liability for the development, construction, operation or maintenance of any SEF.

##### 3.1 Delay Damages.

(a) If the Commercial Operation Date for the SEF is not achieved by the Guaranteed Commercial Operation Date set forth in the associated Site Specific PPA, Seller shall pay to Buyer damages in an amount equal to \$100.00 per MW of the nameplate capacity of the SEF, as set forth in the associated Site Specific PPA, per day, commencing on the Guaranteed Commercial Operation Date for such SEF and ending on the earlier of (i) the Commercial Operation Date for such SEF, (ii) the date that Buyer exercises its right to terminate the Site Specific PPA associated with such SEF under **Section 2.3(b)**, ~~or~~and (iii) the date that is twelve (12) months after the Guaranteed Commercial Operation Date for such SEF ("**Delay Damages**").

(b) Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to Seller's delay in achieving the Commercial Operation Date by the Guaranteed Commercial Operation Date associated with such SEF would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Delay Damages as agreed to by the Parties and set forth herein are a fair and reasonable calculation of such damages. Notwithstanding the foregoing, this Section shall not limit the amount of damages payable to Buyer if this Agreement is terminated as a result of Seller's failure to achieve the Commercial Operation Date.

**3.3 Construction.** Seller shall construct the SEF as described in the associated Site Specific PPA, in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the SEF and all requirements of the ISO-NE Rules and ISO-NE Practices for the delivery of the Products to Buyer. Seller shall bear all costs related thereto. Seller may contract with other Persons to provide construction functions, so long as Seller maintains overall control over the construction of the SEF through the Term. Seller

shall require that any of its subcontractors working under this Master PPA enter into a Release, Hold Harmless and Indemnification Agreement, substantially in the form of hereto attached Exhibit C, with the State, as applicable.

**3.4 Maintenance.** No later than (a) the Commercial Operation Date and (b) two months prior to the end of each calendar year thereafter during the Term, Seller shall submit to Buyer a schedule of planned maintenance for the following calendar year for the SEF. Such schedule shall be consistent with the requirements of Good Utility Practice and the Interconnection Agreement, and otherwise in accordance with this Agreement. To maximize production of Energy, Seller shall not schedule maintenance of the SEF during the months of January through February or June through September, and shall operate the SEFs so as to be in operation during the hours of anticipated peak load in New England, as determined by ISO-NE; provided, however, that planned maintenance may be scheduled during such period to the extent the failure to perform such planned maintenance is contrary to operation of the SEF in accordance with Good Utility Practice. Notwithstanding anything in this paragraph to the contrary, Seller's schedule of planned maintenance is subject to the State's public security requirements.

**3.5 Interconnection and Delivery Services.**

(a) Seller shall be responsible for all costs associated with interconnection of the SEF at the Delivery Point, including the costs of any utility upgrades, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and Client Agency's Serving Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

**ARTICLE 4.**

**PURCHASE AND SALE; DELIVERY, GOVERNMENTAL CHARGES, PURCHASE OPTION**

**4.1 Purchase and Sale of Energy Output.** As to each Agreement, during the Term, Seller shall deliver to Buyer, and Buyer shall take delivery of and consume, at each Delivery Point, all of the Energy in accordance with the terms of each Agreement.

**4.2 Price for Energy Output.** As to each Agreement, Buyer shall pay Seller for all of the Energy delivered to the Delivery Point, as metered at the Metering Device, at the Energy Payment Rate, set forth in the applicable Site Specific PPA, plus any Lost Seller Revenue. The payment to be made by Buyer to Seller shall equal the Energy for the relevant period multiplied by the Energy Payment Rate, set forth in the applicable Site Specific PPA, for such period plus any Lost Seller Revenue.

**4.3 Good Faith Effort to Amend Energy Payment Rate.** Upon Seller's selection of an initial Financing Party for each Agreement, if (A) the date of such selection is after the effective date of the applicable Site Specific PPA, and (B) Seller deems, in its sole discretion, that a lower Energy Payment Rate for the applicable Site Specific PPA is commercially reasonable as a result of the selected financing, then the Parties agree to make a good faith effort to amend the applicable Site Specific PPA to reduce the Energy Payment Rate thereunder. Seller and any Financing Party have no obligation to offer or present any amendment or modification to any Site Specific PPA pursuant to this Section.

**4.3.4 Energy Payment Rate.** As to each Agreement, during the Term, Seller shall sell to Buyer and Buyer shall purchase from Seller all of the Energy, as and when the same is produced, at the Energy Payment Rate in effect at the time of delivery, as detailed in the applicable Site Specific PPA. Seller shall deliver the Energy to the Delivery Point, and Buyer shall accept the Energy delivered during the Term. Seller shall not make or add any demand, delivery or other incidental charges to the Energy Payment Rate.

**4.44.5 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.

**4.54.6 Governmental Charges.**

(a) Seller is responsible for paying all local, state and federal income taxes attributable to Seller for income received under this Master PPA.

(b) The Seller shall use reasonable efforts to administer this Master 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.

**4.64.7 Minimum Output Requirements.**

(a) Buyer shall be entitled to the entire Energy output of the SEF. From and including the Commercial Operation Date until the first anniversary thereof, the SEF shall produce a minimum amount of Energy equivalent to ninety-percent (90%) of the Expected System Output of the SEF (the "**Minimum Energy Output Requirements**"). The Minimum Energy Output Requirements shall decline by an assumed one half percent (0.5%) on each anniversary of Commercial Operation thereafter for the Term to account for natural degradation of the SEF. Buyer agrees that such Minimum Energy Output Requirements for any given year shall be subject to the following adjustments to address their negative impact on the SEF and its ability to meet the Minimum Energy Output Requirements: (i) weather normalization due to the lack of Insolation on the SEF, (ii) any Buyer Act, (iii) acts of third parties and (iv) Force Majeure events. Seller shall use commercially reasonable efforts to remedy any shortfall should the SEF fail to produce the Minimum Energy Output Requirements and this failure not be attributable to the foregoing adjustment factors. The Minimum Energy Output Requirements may be satisfied, at the Seller's discretion, either by (i) SEF performance or (ii) by Seller's delivery of substitute renewable energy sufficient to meet such requirements, provided that any substitute energy must be provided at the Energy Payment Rate provided for in Section **4.34**.

(b) The Parties agree that the Minimum Energy Output Requirements are based on estimated output, and that the SEF size and output of the SEF may be modified prior to Commercial Operation of such SEF due to any applicable Law or Utility Requirements. Any such adjustment of the SEF size and output shall result in a modification of the applicable Minimum Energy Output Requirements as reasonably determined by the Seller.

(c) Seller shall not be required to meet the Minimum Energy Output Requirement to the extent the failure to meet such Minimum Energy Output Requirement arises out of or results from: (i) a Person other than Seller or its approved service providers installing, removing or repairing the SEF; (ii) destruction, damage, modification or alteration to the SEF or its ability to produce energy (including but not limited to reduction in Insolation) not caused by Seller or its approved service providers while servicing the SEF; (iii) Buyer's failure to perform, or breach of, its **material** obligations under this Master PPA; (iv) any Buyer Act that reduces the output of the SEF; (v) any event of Force Majeure; (vi) a power or voltage surge caused by a Person other than Seller or its approved service providers while servicing the SEF; (vii) any SEF failure not caused by the SEF defect; or (viii) theft of all or any part of the SEF.

#### 4.74.8 Insolation.

(a) Buyer understands that unobstructed access to sunlight (“*Insolation*”) is essential to Seller’s performance of its obligations and a material term of each Agreement. Seller acknowledges that in the future, Buyer may be obligated by ~~the State, its governing body or other entities or persons that have the power to affect the actions of the Buyer (each a~~ (“*Controlling Entity*”), to construct a building or take other actions that may negatively impact the Insolation on the SEF. Therefore, Buyer shall take no action within its control that adversely interferes with the SEF’s Insolation, provided that, if a Controlling Entity obligates Buyer to take an action that may negatively impact the Insolation on the SEF that Buyer must comply with, Buyer shall mitigate such negative impact on the SEF and Seller by either (i) compensating Seller for the reduced output of the SEF by payment for Lost Seller Revenue or (ii) use best reasonable efforts to provide an alternate location for the SEF in accordance with Section 4.78(b). If Buyer becomes aware of any activity or condition that could diminish the Insolation of the SEF, Buyer shall notify Seller and shall cooperate with Seller in preserving the SEF’s existing Insolation levels. Seller may inspect site on a quarterly basis and notify Buyer of perceived activity that is interfering with the SEF’s Insolation. Buyer agrees that any interference with SEF’s Insolation, caused or permitted by any Buyer Act and which Insolation interference has been documented by Seller in good faith, shall be a Buyer Event of Default.

(b) If Buyer elects to provide an alternative location for the SEF on the Property, Buyer shall promptly provide Seller with a mutually agreeable substitute premises in a location with similar or better solar insolation than the current Premises (“*Substitute Premises*”). Buyer shall provide at least one hundred and eighty (180) days written notice prior to the date on which it desires to effect such substitution of the Premises (“*Substitution Notice Period*”). In connection with such substitution, Buyer and Seller shall work in good faith to amend the applicable Site Specific PPA to reflect the terms of such substitution. If Buyer and Seller fail, in good faith, to reach an agreement and execute an amendment to the applicable Site Specific PPA within the Substitution Notice Period, unless such period is extended at Seller’s sole discretion, the substitution shall not be allowed and Buyer shall compensate Seller in accordance with Section 4.78(a)(i).

4.84.9 Maintenance of Premises; Alterations to Premises. Buyer shall, at its sole cost and expense, maintain the Premises in good condition and repair. Buyer will make reasonable efforts to ensure that the Premises and Property ~~remains~~*remain* interconnected to the local utility grid within its control and shall limit instances of cessation of electric service to the Premises from the local utility. Buyer is fully responsible for the maintenance and repair of the ~~Property’s~~*Property’s* electrical system opposite the SEF side of the Metering Device and of all of Buyer’s equipment that utilizes the SEF’s outputs. Buyer shall make reasonable efforts to maintain in working order Buyer’s electric supply or generation equipment that Buyer may shut down while utilizing the SEF. Buyer shall notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the SEF or that may adversely affect the SEF. Seller acknowledges that in the future, Buyer may be obligated by a Controlling Entity, Law, or its own policies and procedures, to take actions or undertake alterations or repairs that may negatively impact the SEF’s location or its ability to continually generate energy and Environmental Attributes. Therefore, Buyer shall provide Seller reasonable notice of any such planned or contemplated actions, alterations or repairs to the Premises which may adversely affect the operation and maintenance of the SEF and shall negotiate in good faith with Seller to amend the applicable Site Specific PPA within sixty (60) Business Days to restore the allocation of economic benefits and burdens contemplated hereunder, taking into account the effects of Buyer’s actions, alterations or repairs to the Premises on the operations and maintenance of the SEF. If such an agreement is not achieved within this timeframe, Seller shall pay to Buyer the amount of any Lost Seller Revenue, in each case, that arises from such actions, alterations or repairs. If Buyer wishes to make substantial alterations or repairs to the Premises, 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 SEF, but,

notwithstanding any such advice, ~~Buyer~~Seller shall not be responsible for ~~all~~any damage to the SEF caused by Buyer or its contractors. To the extent that temporary disconnection or removal of the SEF is necessary to perform such alterations or repairs, such work and any replacement of the SEF 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. Seller shall maintain and assure all equipment on the SEF Side of the Metering Device is in good working order to prevent the backflow of Buyer's electricity into the SEF.

**4.94.10 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 SEF at the fair market value of such SEF on the date of purchase (the "**Purchase Price**") 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 thereof during the remainder of the Term, or simultaneously with the termination of this Master PPA pursuant to Section 9.2 (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 for ninety (90) continuous days without any efforts by Buyer to cure.

**4.104.11 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 of any SEF eligible for purchase under the Purchase Option. The Parties shall use commercially reasonable efforts to determine the Purchase Price by mutual agreement within sixty (60) days after Buyer's request for a Purchase Price determination. If the Parties have not agreed on the Purchase Price within thirty (60) days after Buyer's request for a Purchase Price determination, then the Purchase Price shall be the fair market value of the SEF being purchased on the date of purchase, 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 Site Specific 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 SEF being purchased, 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 SEF being purchased shall consider, among other things, the income and savings associated with the SEF for the remaining portion of the Term, and the SEF'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.

**4.114.12 Title Transfer; Warranties.** Seller shall transfer good title to the SEF to Buyer upon Seller's receipt of the Termination Payment or Purchase Price, as applicable, and execution by the Parties of a written instrument or agreement to effect such transfer. The SEF will be transferred "as is, where is, with all faults". Seller will assign to Buyer any manufacturer's warranties that are in effect as of the date of purchase and which are then assignable pursuant to their terms, but Seller otherwise disclaims all warranties of any kind, express or implied, concerning such SEF (other than as to title). Upon transfer of the SEF, Purchaser shall assume complete responsibility for the operation and maintenance of the SEF and liability for the performance of (and risk of loss for) the SEF, and, except for any Seller obligations that survive termination under Section 12.5, Seller will have no further liabilities or obligations hereunder for the SEF.

**4.124.13 Interconnection Agreement.** Notwithstanding anything to the contrary in the Interconnection Agreement, Seller shall forego all of its rights and responsibilities under such Interconnection Agreement, or agree in writing to a termination thereof, should Buyer elect to exercise the Purchase Option.

## ARTICLE 5.

### TITLE TO SEF; ENVIRONMENTAL ATTRIBUTES; CAPACITY ATTRIBUTES AND TAX BENEFITS

**5.1 Title to SEF, Environmental Attributes, Capacity Attributes and Tax Benefits.** All Environmental Attributes and Capacity Attributes relating to the SEF or the Energy will be and shall remain property of Seller including, without limitation, Solar Renewable Energy Certificates or any comparable instruments. All Tax Benefits will be and shall remain property of Seller. Buyer shall assign to Seller all rights to and income from rebates, credits, or reimbursements attributable to the SEF. Buyer shall not report to a Person that any Environmental Attributes, Capacity Attributes, Tax Benefits, rebates, credits, or reimbursements as assigned to Seller herein belong to any Person other than Seller. Seller shall be the sole owner and title holder of the SEFs at all times during the Term, which SEFs shall (i) at all times retain the legal status of personal property of Seller and (ii) not attach to or be deemed a part of, or fixture to, the Premises. 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 SEFs to protect Seller's rights therein. Any financing statement filed by Seller shall disclaim any rights or interest in any State property. 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 SEFs. In this regard, the Parties ~~intend will treat~~ this Master PPA ~~to be treated~~ as a "service contract" within the meaning of section 7701(e)(3) of the Internal Revenue Code.

**5.2 Further Assurances.** Promptly upon Seller's request and provided Seller is not in default hereunder, Buyer shall execute such documents and instruments reasonably necessary or desirable to (i) effect, evidence or transfer to Seller all right, title and interest in and to the Environmental Attributes, Capacity Attributes, and Tax Benefits, or (ii) effect, participate, or enroll the SEF, Environmental Attributes Capacity Attributes, or the utility account for the Meter, for the benefit of Seller, in any program administered by Client Agency's Serving Utility, Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity. If the standards used to qualify the Environmental Attributes to which Seller is entitled under this Master PPA are changed or modified, Buyer shall promptly upon Seller's request and without cost to Buyer use all commercially reasonable efforts to cause the Environmental Attributes to comply with new standards as changed or modified.

**5.3 Promotion and Branding.** Nothing in this Master PPA ~~is intended to preclude~~precludes Buyer from distributing advertising or other promotional material highlighting the purchase and use of renewable energy from the SEF for commercial or branding purposes. Nothing in this Master PPA ~~is intended to preclude~~precludes Seller from distributing advertising or other promotional material highlighting the purchase and use of renewable



energy from the SEF for commercial or branding purposes. Subject to the foregoing, Buyer and Seller are mutually permitted to use the SEF for promotional purposes, which shall be limited to distribution of written materials, and may not include site visits or signs. Notwithstanding the foregoing, neither Party will use the other Party's (or any Financing Party's) name, logo or other identification in any marketing, promotion or branding without the express written permission of the other Party.

## **ARTICLE 6. CONSTRUCTION, MAINTENANCE AND MONITORING**

### **6.1 Construction, Maintenance, Monitoring and Removal of SEF by Seller.**

(a) Seller shall, at its sole cost and expense, (i) construct the SEF 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 SEF in good condition (including any necessary cleaning of solar panels) and repair in accordance with Prudent Utility Practices and the terms of this Master PPA and all Laws in all material respects, (iii) determine the nature and manner of use of the SEF, and (iv) monitor the SEF's performance to ensure that any SEF 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 SEF'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 portions of the applicable Property and surrounding property so long as Seller does not unreasonably interfere with Buyer's ability to conduct its business. Seller shall have the right to take reasonable action, subject to Buyer's approval, to restrict the right of persons to obtain access to the SEF.

(b) In conjunction with each SSPA, subject to the approval by the Office of Policy and Management of a License Agreement Petition [for CDOT projects include: Subject to approval of FHWA pursuant to 23 CFR 710.405/Commissioner of Transportation pursuant to Conn. Gen. Stat. 13a-80a], Buyer shall grant to Seller a license that will run with the applicable Premises (~~materially substantially~~ in the form of ~~hereto attached~~ Exhibit B, the "*License*") for access to, on, over, under and across such Premises for the purposes of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the SEF; (ii) performing the Seller's obligations and enforcing the Seller's rights set forth in the applicable Agreement; (iii) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the SEF to Buyer's electric system at the Premises 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 SEF; and (iv) solar use rights for the free passage of solar irradiation to the SEF. Seller shall notify Buyer no less than 3 Business Days prior to entering the Premises, except in situations where there is imminent risk of damage to persons or property or otherwise requiring Emergency Repairs. The term of the License shall continue until the date that is ninety (90) days following the date of expiration or earlier termination of the applicable Site Specific PPA (the "*License Term*") so that Seller may remove the SEF property in accordance with Section 6.1(g), below. Seller acknowledges that in the future, Buyer may be obligated by a Controlling Entity to take actions that may negatively impact the Seller. Unless obligated by a Controlling Entity, Buyer shall ensure that Seller's rights under the License and Seller's access to the Premises are preserved and protected and shall not unreasonably interfere with or permit any third parties to unreasonably interfere with such rights or access. In the event that a Controlling Entity requires Buyer to take an action or fail to take actions, in each case that would materially and negatively effect the License, Seller shall be entitled to terminate this Master PPA pursuant to Section 9.1 and obtain a Termination Payment from Buyer in accordance with Section 9.3. Buyer agrees that Seller, subject to approval by Buyer, may record a memorandum of license in the land records respecting the License tin form and substance reasonably acceptable to the Parties.

(c) Seller shall provide Buyer reasonable notice of all activities conducted by or on behalf of Seller on the Premises. During any such activities, Seller and its Representatives shall comply with Buyer's safety, insurance and security procedures (as may be reasonably 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. Seller shall promptly repair any damage done to the Premises as the result of any activities conducted by or on behalf of Seller on the Premises and return the affected portion of the Premises to its condition before such damage.

(d) Notwithstanding any provision of Section 6.1(b) or 6.1(c) ~~to the contrary~~, Seller shall have access to the Premises to effect Emergency Repairs of the Interconnection Equipment located on the Premises immediately upon, or as soon as practicable after, notice to Buyer of the need for access.

(e) Seller may curtail deliveries (inclusive of discontinuing or reducing Energy) at no cost to Buyer 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 SEF. Seller shall promptly 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.

(f) Consistent with good utility practice, Seller may modify, alter, expand or otherwise change the SEF with the prior written consent of Buyer, or without the prior written consent of Buyer as required by applicable Law or Utility Requirements, so long as such modifications, alterations, expansions or other changes do not result in a material change in the capacity of the SEF or a material adverse impact on the operations of the SEF or the SEF's capability to operate. Each Party shall, within a reasonable period, notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises generally or any deposit, spill or release of any Hazardous Substance.

(g) Upon the expiration or earlier Termination of an Agreement, Seller shall, if instructed to do so by Buyer no later than 30 days after such Termination, at its expense, remove all of its tangible property comprising the SEF from the Premises on a mutually convenient date, but in no event later than ninety (90) days after the expiration of the Term. Excluding ordinary wear and tear, the Premises shall be returned to its original condition including the removal of the SEF mounting pads or other support structures. In no case shall Seller's removal of the SEF affect the integrity of the Premises, and, any portion of the roof on which the SEF was installed shall ensure that the roof is as leak proof as it was prior to removal and Seller shall flash and/or patch the roof as necessary or appropriate. Seller shall leave the Premises in neat and clean order. If Seller fails to remove or commence substantial efforts to remove the SEF by such agreed upon date, Buyer shall have the right, at its option, to remove the SEF and restore the Premises to its original condition (other than ordinary wear and tear) at Seller's cost. Buyer shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the SEF removal.

## **6.2 Buyer's Obligations.**

(a) Buyer shall maintain the Premises and, in accordance with Section 4.7, shall not take any actions on the Premises that would cause shading of the SEF or otherwise unreasonably interfere with the

operation of the SEF, reduce the production of Energy from the SEF or damage or otherwise increase the cost of maintenance of the SEF.

(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 Premises 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, but at no cost to Buyer, to acquire and maintain the Governmental Approvals required for the construction, operation, maintenance and repair of the SEF's connection to the Property, including, but not limited to, signing the Interconnection Agreement or any applications or consents for permits, local utility interconnection, SREC 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 Buyer's 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 Client Agency's Serving Utility or any successors thereto, so that the SEF may continuously generate and deliver Energy and so that Buyer may procure its full requirements for electricity that are not served by the SEF.

(e) Buyer shall not cause, or allow any Person under Buyer's control to cause the SEF's equipment on the Premises to be disconnected or shut down, temporarily or otherwise without Seller's consent, 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 Premises of a portion of the SEF caused by any Buyer Act, the Parties shall extend the Master PPA pursuant to the terms of Section 8.5, subject to the limits therein. For any losses of Seller that are not able to be mitigated by the extension of the Master PPA under Section 8.5, Buyer shall pay the amount of any Lost Seller Revenue caused by such a disconnect or shut down.

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

## ARTICLE 7. METERING DEVICE AND METERING

**7.1 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 grants Seller a right of access to the Metering Device on the Property as needed to inspect, repair and maintain such Metering Device during normal business hours. 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.

**7.2 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 7.3, or registers inaccurately, measurement of Energy to the Delivery Point shall be determined ~~in the following sequence: (a)~~ by estimating, which shall be done by ~~reference~~ referring to quantities measured during periods of similar conditions when the Metering Device was registering accurately; ~~or (b) if~~. If no reliable information exists as to the period of time during which such Metering Device was registering inaccurately, then

the ~~Parties shall deem~~ the measurement of Energy to the Delivery Point ~~to have been~~ will be calculated in accordance with a technical analysis of expected generation during such time period, as provided by Seller, subject to Buyer's good faith review and approval, using accepted industry practice for such estimations.

### **7.3 Testing and Correction.**

(a) Upon Buyer's reasonable request, Seller shall inspect and test the Metering Device for accuracy (with such inspection and testing at Buyer's sole expense if requested more than once within a twelve (12) month period). 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 five (5) ~~days~~ 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 ten (10) days after completion of such test. Subject to Section 7.3(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~~ The Party receiving such notice shall, within fifteen (15) 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 two percent (2%), any previous recordings of the Metering Device shall be adjusted in accordance with Section 7.2(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 two percent (2%) 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 7.2, 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.

**7.4 Live Meter Maintenance.** Buyer acknowledges and understands that the SEF is installed behind the current electric utility meter located on the applicable Property (the "**Meter**") and that the Meter remaining live is critical to the proper operation of the SEF. Therefore, Buyer agrees that, in the event Buyer defaults in an

obligation to Client Agency's Serving Utility 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 8.

### LOSS, DAMAGE OR DESTRUCTION OF SEF; INSURANCE; FORCE MAJEURE

#### 8.1 SEF Loss.

(a) Seller shall bear the risk of any SEF Loss excluding, however, any SEF Loss arising out of or resulting from (i) any acts or omissions of Buyer or Buyer's agents, Affiliates or Representatives (including any decision by Buyer to provide Substitute Premises and move the SEF to address diminution of Insolation pursuant to Section 4.7(b)) or (ii) any material breach of the Master PPA by Buyer, or (iii) any material breach of any Agreement by a Client Agency (collectively, the circumstances set forth in clause (i), (ii) or (iii), "**Buyer Act**").

(b) In the event of any SEF Loss that, in the reasonable judgment of Seller, results in less than total damage, destruction or loss of the SEF and more than five (5) years remains in the Term, the applicable Agreement will remain in full force and effect and Seller will, at Seller's sole cost and expense, subject to Section 8.1(c) below, repair or replace the SEF as quickly as practicable.

(c) To the extent that any SEF Loss, which in the reasonable judgment of both Buyer and Seller, results in less than total damage or destruction or loss of the SEF, and is caused by Buyer Act, then, but only to the extent permitted by the law concerning sovereign immunity, 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 SEF Loss that, in the reasonable judgment of Seller, results in total damage, destruction or loss of the SEF, or to the extent the SEF is damaged during the last five (5) years of the Term, Seller shall, within ten (10) Business Days following written notice from the Buyer of the occurrence of such SEF Loss, notify Buyer whether Seller is willing, notwithstanding such SEF Loss, to repair or replace the SEF, it being understood that in such instance, Seller shall have no obligation to restore the SEF.

(e) In the event that Seller notifies Buyer that Seller is not willing to repair or replace the SEF, the applicable Agreement will terminate automatically effective upon the effectiveness of such notice unless Buyer agrees to pay the restoration cost. If such SEF 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 SEF, the following shall occur: (A) this Master PPA and the applicable Agreement will remain in full force and effect, and (B) Seller will repair or replace the SEF as quickly as practicable but in any event within six (6) months of the casualty and, in addition, if such SEF Loss has been caused, in total or partially, by Buyer Act, Buyer shall, but only to the extent permitted by the law concerning sovereign immunity, promptly upon demand therefor from Seller pay any and all costs and expenses of such repair or replacement caused by such Buyer Act.

8.2 Insurance. [Seller shall obtain and maintain at its own cost and expense for the duration of the Master PPA and each Agreement, the following insurance as described in (a) through (c) below. Seller shall assume any and all deductibles in the described insurance policies. The Seller's insurance shall be primary

coverage. Any failure to comply with the claim reporting provisions of the policy shall not affect coverage provided to the State.

(a) Commercial General Liability, \$1,000,000 combined single limit per occurrence for bodily injury, broad form property damage (including coverage for explosion, collapse and underground hazards), contractual liability, premises-operations, independent Sellers' protective and products-completed operations.

(b) Workers' Compensation and Employers Liability in compliance with the Compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.

(c) Umbrella Liability, \$5,000,000 per occurrence. The policy shall be following form and list the existing underlying insurance policies.

All liability policies (with the exception of Workers' Compensation) shall include (1) the Buyer as an Additional Insured for claims caused in whole or in part by the Seller's negligent acts, errors or omissions during the Seller's operations (2) the Buyer as an Additional Insured for claims caused in whole or in part by the Seller's negligent acts, errors or omissions during the Seller's completed operations.

All required insurance policies shall include a waiver of subrogation clause that expressly waives any rights of recovery against the Buyer and shall not affect the Buyer's rights under the policy. When the Seller is self-insured, the Seller expressly waives any rights of recovery against the Buyer to the same extent as would be provided by the required insurance provision.]<sup>1</sup>

**8.3 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 Master PPA or any Agreement 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 Master PPA and the applicable Agreement affected by the Force Majeure event 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.

**8.4 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 the applicable Agreement, 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 SEF to Buyer for a continuous period of twelve (12) months for any reason other than Force Majeure, Buyer Event of Default or Buyer Act hereunder, Buyer shall have the right to terminate the applicable Agreement by delivering written notice of such Termination at any time prior to the date upon which the SEF resumes the production of Energy.

### **8.5 Security of the Premises, SEF Security**

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<sup>1</sup> Still under CGB review for compliance

(a) Buyer shall maintain the Premises in a structurally sound and safe condition consistent with Laws. If Buyer becomes aware of any circumstances relating to the SEF that creates an imminent risk of damage or injury to the SEF or any person, Buyer shall promptly notify Seller.

(b) Buyer acknowledges and agrees that Seller may install all security measures that Seller determines are or may be reasonably necessary for the SEF, subject to the consent of Buyer, such consent not to be unreasonably delayed or withheld. Such measures shall be subject to applicable Laws and may, but will not necessarily, include security fencing with security wire, warning signs, closed and locked gates, alarms, closed circuit television cameras and other measures appropriate and reasonable to protect against damage or destruction of the ~~System~~SEF or injury or damage to persons or property resulting from the ~~System~~SEF.

## **ARTICLE 9. TERMINATION; EVENTS OF DEFAULT; REMEDIES**

### **9.1 Early Termination.**

(a) Notwithstanding any provisions in this Master PPA or any Agreement, Buyer, through a duly authorized employee, may Terminate this Master PPA or any Agreement whenever Buyer makes a written determination that such Termination is in the best interests of the State. Buyer shall notify the Seller in writing of Termination pursuant to this section, which notice shall specify the effective date of Termination.

(b) Buyer shall send the notice of Termination pursuant to this section via certified mail, return receipt requested, to the Seller at the most current address which the Seller has furnished to Buyer for purposes of correspondence, or by hand delivery. Upon receiving the notice from Buyer, the Seller shall undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Buyer all Records. The Records are deemed to be the property of the Buyer and the Seller shall deliver them to the Buyer no later than thirty (30) days after the Termination of the Master PPA or the applicable Agreement or fifteen (15) days after the Seller receives a written request from either Buyer or the Buyer for the Records. The Seller shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.

(c) Upon Termination of any Agreement, Seller shall remove the SEF pursuant to the terms of subsection 6.1(g), unless Buyer (i) has made the Termination Payment, for which a valid appropriation has been made, to Seller, and (iii) elects to take title to the SEF pursuant to Section 4.11. This subsection shall survive the Termination of the Master PPA and any Agreement.

(d) Buyer shall, within forty-five (45) days of the effective date of Termination, pay a Termination Payment to Seller. This subsection shall survive the Termination of this Master PPA and any Agreement.

(e) Upon Termination of this Master PPA or any Agreement pursuant to this section, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination. All representations, warranties, agreements and rights of the Parties under the Master PPA or the applicable Agreement shall survive such Termination to the extent not otherwise limited in the Master PPA or the applicable Agreement and without each one of them having to be specifically mentioned in the Master PPA or the applicable Agreement.

(f) Termination of the Master PPA or any Agreement pursuant to this section shall not be deemed to be a breach of contract by Buyer. Any Termination by Buyer for a breach is without prejudice to Buyer's or the State's rights or possible Claims.

**9.2 Events of Default.** An Event of Default under this Master PPA and each Agreement 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 Master PPA or any Agreement 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 Master PPA or any Agreement that 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 Master PPA or any Agreement 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 due diligence such default is not capable of cure within said thirty (30) days, the Defaulting Party shall have ninety (90) days to cure such default after the receipt of such notice, provided the Defaulting Party diligently pursues such cure and substantially completes same within said ninety (90) days ~~after the receipt of such notice.~~ The Parties may mutually agree in writing that the Defaulting Party shall have additional time as is reasonably necessary to cure such default;

(d) such Party becomes Bankrupt; or

(e) solely as to Buyer, (i) the closure or shutdown of Buyer’s operations or other shutdown or materially detrimental change in the generation of the SEF caused by Buyer Act; (ii) Buyer loses its rights to occupy and enjoy the Premises; or (iii) Buyer prevents Seller from installing the SEF without good cause or otherwise fails to perform in a way that prevents the delivery of electronic energy from the SEF.

**9.3 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 the applicable Agreement 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 the applicable Agreement or exercise the Purchase Option. 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 being claimed) then thereafter, and only thereafter, Buyer shall have the right, without the obligation to make a Termination Payment, to (i) Terminate the applicable Agreement as of such date by providing written notice of such Termination to Seller or (ii) exercise the Purchase Option. Upon Termination of any Agreement, Seller shall remove the SEF as set forth herein.

**9.4 Seller Remedies.**

(a) Upon the occurrence and during the continuance of an Event of Default where Buyer is the Defaulting Party (a “*Buyer Event of Default*”), Seller shall have the right to (i) obtain from Buyer, and Buyer shall pay, a Termination Payment to Seller, and (ii) pursue any and all additional claims against Buyer in accordance with Section 9.3 subsection (b) below, but only to the extent permitted by the law concerning sovereign immunity. In the event any Buyer Event of Default remains uncured following any applicable notice and cure period, Seller shall have the right to provide Buyer with written notice of its intent to Terminate any Agreement and Terminate such Agreement forty-five (45) days after Buyer’s receipt of such notice; provided



that, for Terminations relating to payment of amounts owed by Buyer, Seller may Terminate forty-five (45) days after Buyer's receipt of such notice.

(b) ~~Seller agrees that the~~The sole and exclusive means for the presentation of any ~~claim~~Claim against the Buyer arising from this Master PPA or any Agreement shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State), ~~and~~. Seller ~~further agrees shall~~ not to initiate legal proceedings in any state or federal court in addition to, or in lieu of, said Chapter 53 proceedings.

**9.5 Remedies Cumulative.** Except as specifically provided to the contrary, the rights and remedies contained in this Article ~~89~~ are cumulative with the other rights and remedies available under this Master PPA or any Agreement or at law or in equity.

**9.6 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 Master PPA or any Agreement. Notwithstanding anything to the contrary herein, and only to the extent permitted by the law concerning sovereign immunity, 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.

**9.7 Term Appropriations.** Buyer shall use best efforts to obtain sufficient funding for each fiscal year during the Term to meet its payment obligations, including, without limitation any Termination Payment, to the Seller pursuant to this Master PPA and each Agreement, including, without limitation, to request funding in each of its annual budget requests. The Parties acknowledge that appropriation for such payment obligations is a governmental function, which Buyer cannot contractually commit itself in advance to perform, and this Master PPA and each Agreement does not constitute such a commitment.

## ARTICLE 10. INVOICING AND PAYMENT

**10.1 Invoicing and Payment.** Seller will issue monthly invoices within ten (10) days after the conclusion of the preceding calendar month for deliveries made during that month. Except as specifically provided to the contrary herein or by written amendment by the Parties, all invoices under an Agreement will be due and payable not later than forty-five (45) days after receipt of the applicable invoice. Such invoice(s) shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request. Each Party will make payment by check, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts due under an Agreement and not paid shall accrue interest at the Late Payment Interest Rate until paid in full to the extent permitted by Law.

**10.2 Disputed Amounts.** A Party may in good faith dispute the correctness of any invoice (or any adjustment to any invoice) under an Agreement 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 an Agreement, and to give notice of the objection to the other Party. Any required payment will be made within forty-five (45) 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 to the extent permitted by Law.

### **10.3 Audit and Inspection of Plants, Places of Business and Records.**

(a) The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Seller's and Seller Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Master PPA.

(b) The Seller shall maintain, and shall require each of the Seller's Representatives to maintain, accurate and complete records. The Seller shall make all of its and its Representatives records available at all reasonable hours for audit and inspection by the State and its agents.

(c) The State shall make all requests for any audit or inspection in writing and shall provide the Seller with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.

(d) The Seller shall keep and preserve or cause to be kept and preserved all of its and its Representatives records until three (3) years after the latter of (i) final payment under this Master PPA, or (ii) the termination or expiration of this Master PPA, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any claim or audit is started before the expiration of this period, the Seller shall retain or cause to be retained all records until all claims or audit findings have been resolved.

(e) The Seller shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Seller shall cooperate with an exit conference.

(f) The Seller shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Seller Representative.

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

## **ARTICLE 11. REPRESENTATIONS AND WARRANTIES**

**11.1 Representations and Warranties.** Each Party represents and warrants to the other Party, as applicable, 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 Master PPA 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 Master PPA and each other document executed and delivered in accordance with this Master 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 Master 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 Master PPA; (f) it has no knowledge of any facts or circumstances that could materially and adversely affect their respective ability to perform their obligations hereunder, (g) it understands that the other Party is not acting as a fiduciary for or an advisor to it or its Affiliates, and (h) it is not

a utility, public utility or a public utility holding company and is not subject to regulation as a utility, public utility or a public utility holding company.

## **ARTICLE 12. SOVEREIGN IMMUNITY; INDEMNITY; LIMITATIONS**

**12.1 Sovereign Immunity.** The Parties acknowledge and agree that nothing in this Master PPA shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal Law or the Laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of this Master PPA. To the extent that this section conflicts with any other section, this section shall govern.

**12.2 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 Master PPA satisfy the essential purposes hereof. Without prejudice to the calculation of the amount of any Termination Payment, payment for Lost Seller Revenue, 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 Master PPA 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 Master 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 Agreement.

~~**12.3 Limitations on Warranties.** Except as expressly provided in this Master PPA, Seller hereby disclaims any and all representations, warranties and guarantees, express or implied, including warranties of merchantability and fitness for a particular purpose.~~

**12.412.3 Duty to Mitigate.** Buyer and Seller shall each have a duty to mitigate damages pursuant to this Master PPA, and each shall use commercially reasonable efforts to minimize any damages it may incur as a result of the.

**12.512.4 Indemnification.**

(a) The Seller shall indemnify, defend and hold harmless the Buyer and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) claims arising, directly or indirectly, in connection with the Master PPA, including the Acts of the Seller or Seller Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with claims, acts or the Master PPA. The Seller shall use counsel reasonably acceptable to the Buyer in carrying out its obligations under this section. The Seller's obligations under this section to indemnify, defend and hold harmless includes claims concerning confidentiality of any part of or all of the Seller's bid, proposal or any records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance.

(b) The Seller shall not be responsible for indemnifying or holding the Buyer harmless from any liability arising due to the negligence of the Buyer or any other person or entity acting under the direct control or supervision of the Buyer.

(c) The Seller shall reimburse the Buyer for any and all damages to the real or personal property of the Buyer caused by the acts of the Seller or any Seller Parties. The Buyer shall give the Seller reasonable notice of any such claims.

(d) The Seller's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Master PPA, without being lessened or compromised in any way, even where the Seller is alleged or is found to have merely contributed in part to the acts giving rise to the claims and/or where the Buyer is alleged or is found to have contributed to the acts giving rise to the claims.

(e) This section shall survive the Termination of the Master PPA and shall not be limited by reason of any insurance coverage.

### **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 Seller:

Connecticut Green Bank  
845 Brook Street  
Rocky Hill, CT 06067  
Attention: General Counsel

If to Buyer:

State of Connecticut Department of Administrative Services  
Procurement Division  
450 Columbus Boulevard, Suite 1202  
Hartford, CT 06103  
Attention: Paul Greco

### **ARTICLE 14. ASSIGNMENT AND FINANCING**

**14.1 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 Master PPA or any Agreement, 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, or otherwise directly or indirectly transfer all or any part of, or any right or obligation under this Master PPA or any Agreement (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 SEF; (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 SEF operation and maintenance under this Master PPA and the applicable Agreement and (2) Seller shall have granted to the Qualified Assignee all other rights granted to Seller herein necessary for operation and maintenance of SEF (each, a "**Permitted Transfer**"). Seller shall deliver notice of any Permitted Transfer to Buyer in writing within thirty (30) days. Buyer agrees, ~~with approval of the State's Attorney General,~~ 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, including the assignment requirements in the State's Accounting Manual.

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

**14.2 Cooperation with Financing.** Buyer acknowledges that Seller will be financing the construction of the SEFs and Buyer agrees that it shall reasonably cooperate with Seller and its Financing Parties in connection with such financing for the SEFs, including (a) the furnishing of such public information; (b) the giving of such certificates; (c) providing ~~of an officer's~~ certificate ~~of Buyer or its affiliate~~ that this Master PPA and each Agreement 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 SEF or in Seller's rights under this Master PPA and each Agreement; *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 Master PPA and each Agreement to the Financing Parties except as specifically provided herein.

## **ARTICLE 15.**

### **FINANCING PARTY ACCOMMODATIONS**

**15.1 Buyer Acknowledgment.** Buyer acknowledges that Seller shall have the right to finance the SEFs 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 Master PPA and any Agreement and a first security interest in the SEFs. In order to facilitate such necessary financing, Buyer agrees as set forth below.

**15.2 Consent to Assignment.** Notwithstanding any contrary term or provision of this Master PPA or any Agreement, Seller shall have the right to assign this Master PPA and each Agreement in connection with the financing or refinancing of the SEFs, and Buyer consents to the assignment by Seller to the Financing Party of Seller's right, title and interest in and to this Master PPA and each Agreement. Notwithstanding any contrary term or provision contained in this Master PPA or any Agreement, any assignment of this Master PPA or any Agreement to a Financing Party for financing or refinancing of the SEFs shall not require Buyer's consent. In addition, Buyer shall in good faith work with Seller and Seller's Financing Party upon request to agree upon consent by Buyer to the assignment of this Master PPA or any Agreement, provided that any such consent does

not require Buyer to alter its rights and obligations pursuant to this Master PPA or the applicable Agreement in any way.

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

(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 Master PPA and the applicable Agreement in accordance with the terms of this Master PPA and such Agreement, 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 Master PPA, the applicable Agreement and the SEFs.

(b) The Financing Party shall have the right, but not the obligation, to pay all sums due under this Master PPA and an Agreement 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 Master PPA and the applicable Agreement. 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 SEFs, 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 Master PPA or any Agreement; *provided, further*, that any sale, transfer or other disposition of the SEFs 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 as defined in this Master PPA or the applicable Agreement.

(d) Upon any rejection or other termination of this Master PPA or any Agreement 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 Master PPA or Agreement 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 SEF 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 Master PPA or any Agreement, pursuant to the terms and conditions hereof, and further agrees to sell its right in the SEF or the applicable Agreement to a Qualified Assignee purchaser only if such purchaser agrees to continue to provide Buyer with Energy under the applicable Agreement in accordance with the terms and conditions thereof.

(f) Upon receipt from Financing Party of its invocation of the rights provided for in this Section 15.3 and the name and address of the Financing Party entitled to notice, Buyer will not exercise any right to terminate this Master PPA or any Agreement 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 Master PPA or any Agreement. Buyer's notice of an intent to terminate this Master PPA or any Agreement must specify the condition giving rise to such right. Notwithstanding any contrary term or provision in this Master PPA or any Agreement, Financing Party shall have forty-five (45) days beyond the cure period provided to Seller pursuant to this Master PPA or any Agreement to cure the condition. Buyer's and Seller's obligations under this Master PPA or any Agreement will otherwise remain in effect and required to be fully performed during any cure period.

(g) 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 SEF, or has acquired title to or taken control of the SEF, 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 15.3(a) and assumes in writing the obligations of Seller hereunder, then this Master PPA and the applicable Agreement will continue in full force and effect.

(h) Upon and at any relevant time after receipt of the notice provided for in Section 15.3(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 16. MISCELLANEOUS**

**16.1 Reference to Master Agreement.** Each Site Specific PPA will specifically refer to this Master PPA. This Master PPA incorporates by reference all of the provisions of each Site Specific PPA, and the entirety of this Master PPA shall include all Site Specific PPAs.

**16.2 Forum and Choice of Law.** The parties deem the Master PPA and each Agreement to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Master PPA and each Agreement to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Seller waives any objection which it may now have or will have to the laying of venue of any claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

**16.3 Entire Agreement; Amendments.** This Master PPA together with all Site Specific PPAs, and the attachments thereto, attached hereto is the entire agreement between the parties with respect to its subject matter, and supersedes all prior agreements, proposals, offers, counteroffers and understandings of the parties, whether written or oral. Except as otherwise expressly provided in this Master PPA, any amendment, modification or change to this Master PPA will be void unless in writing and executed by both Parties and approved by the Office of the Attorney General of the State of Connecticut, if applicable.

**16.4 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 operate as or constitute a consent to waiver of, or excuse of any other or subsequent or succeeding breach by either Party.

**16.5 Severability.** If any part, term, or provision of this Master PPA, is determined by a 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 Master PPA, and shall not render this Master PPA unenforceable or invalid as a whole. Rather the part of this Master 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 Master PPA will remain in full force.

**16.6 No Third Party Beneficiaries.** Nothing in this Master 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.

**16.7 No Recourse to Affiliates.** This Master 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.

**16.8 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.

**16.9 Counterparts.** This Master PPA and each Agreement 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 Master 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.

**16.10 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 Master PPA.

**16.11 Uniform Commercial Code Filings.** Except as concerns any property belonging to the State, Seller shall be entitled to, and is hereby authorized to, file one or more precautionary Uniform Commercial Code financing statements or fixture filings, as applicable, in such jurisdictions as it deems appropriate with respect to the SEF Assets in order to protect its rights in the SEF Assets.

**16.12 Forward Contract.** The Parties acknowledge and agree that this Master PPA and the transactions consummated under this Master 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.

**16.13 Prevailing Wages.** Some or all of the performance under this Master PPA may be subject to prevailing wages. Accordingly, the following provision is included in this Master PPA in accordance with the requirements of Conn. Gen. Stat. Sec. 31-53(a):

*The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in subsection (i) of Conn. Gen. Stat. Sec. 31-53(a), shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any Contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker*



*as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.*

**16.14 Time of the Essence.** Time is of the essence with respect to all provisions of this Master PPA that specify a time for performance; provided, however, that this provision shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Master PPA.

**~~16.15 Audit and Inspection of Plants, Places of Business and Records.~~**

~~(a) — The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Seller's and Seller Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Master PPA.~~

~~(b) — The Seller shall maintain, and shall require each of the Seller Parties to maintain, accurate and complete Records. The Seller shall make all of its and the Seller Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.~~

~~(c) — The State shall make all requests for any audit or inspection in writing and shall provide the Seller with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.~~

~~(d) — The Seller shall keep and preserve or cause to be kept and preserved all of its and the Seller Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier Termination of this Master PPA, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Seller shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.~~

~~(e) — The Seller shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Seller shall cooperate with an exit conference.~~

~~(f) — The Seller shall incorporate this entire Section 37 verbatim into any contract or other agreement that it enters into with any Seller Party.~~

**16.16.15 References to Statutes, Public Acts, Regulations, Codes and Executive Orders.** All references in this Master PPA to any statute, public act, regulation, code or executive order shall mean such statute, public act, regulation, code or executive order, respectively, as it has been amended, replaced or superseded at any time. Notwithstanding any language in this Master PPA that relates to such statute, public act, regulation, code or executive order, and notwithstanding a lack of a formal amendment to this Master PPA, this Master PPA shall always be read and interpreted as if it contained the most current and applicable wording and requirements of such statute, public act, regulation, code or executive order as if their most current language had been used in and requirements incorporated into this Master PPA at the time of its execution.

**16.1716.16 Confidential Information.**

(a) The State will afford due regard to the Seller's request for the protection of proprietary or confidential information which the State receives. However, all materials associated with the Master PPA are

subject to the terms of the Connecticut Freedom of Information Act (“FOIA”) and all corresponding rules, regulations and interpretations. In making such a request, the Seller may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the Seller believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Seller that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Master PPA, or associated documents, conflicts or is in any way inconsistent with this section, this section controls and shall apply and the conflicting provision or part shall not be given effect. If the Seller indicates that certain documentation is submitted in confidence, by specifically and clearly marking said documentation as CONFIDENTIAL, Buyer will endeavor to keep said information confidential to the extent permitted by Law. Buyer, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The Seller shall have the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall Buyer or the State have any liability for the disclosure of any documents or information in its possession which the State or Buyer believes are required to be disclosed pursuant to the FOIA or other requirements of Law.

(b) Seller and its Representatives, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.

(c) Seller and its Representatives shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:

- (i) A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
- (ii) Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
- (iii) A process for reviewing policies and security measures at least annually;
- (iv) Creating secure access controls to Confidential Information, including but not limited to passwords; and
- (v) Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.

(d) The Seller and its Representatives shall notify the Buyer and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Seller or Seller Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Seller shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the

Commissioner of Administrative Services, the Buyer and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Seller at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Sellers' costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Buyer, any State of Connecticut entity or any affected individuals.

(e) The Seller shall incorporate the requirements of this Section in all subcontracts requiring each Seller Party to safeguard Confidential Information in the same manner as provided for in this Section.

**16.1816.17 Americans With Disabilities Act.** The Seller shall be and remain in compliance with the Americans with Disabilities Act of 1990 ("Act"), to the extent applicable, during the Term.

**16.1916.18 Working and Labor Synergies.** The Seller shall be responsible for maintaining a tranquil working relationship between the Seller work force, Seller's Representatives and their work force, State employees, and any other contractor present at the work site. The Seller shall quickly resolve all labor disputes which result from the Seller's or Seller's Representatives presence at the work site, or other action under their control. Labor disputes shall not be deemed to be sufficient cause to allow the Seller to make any claim for additional compensation for cost, expenses or any other loss or damage, nor shall those disputes be deemed to be sufficient reason to relieve the Seller from any of its obligations under the Master PPA.

#### **16.2016.19 Dispute Resolution.**

In the event that any question, dispute, or difference arises out or in connection with this Master 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.

#### **16.11 Nondiscrimination.**

References in this section to "contract" shall mean this Master PPA and references to "Contractor" shall mean Seller.

(a) For purposes of this Section, the following terms are defined as follows:

(i) "Commission" means the Commission on Human Rights and Opportunities;

(ii) "Contract" and "contract" include any extension or modification of the Contract or contract;

(iii) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;

(iv) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose;

(v) “good faith” means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;

(vi) “good faith efforts” shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;

(vii) “marital status” means being single, married as recognized by the state of Connecticut, widowed, separated or divorced;

(viii) “mental disability” means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association’s “Diagnostic and Statistical Manual of Mental Disorders”, or a record of or regarding a person as having one or more such disorders;

(ix) “minority business enterprise” means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of C.G.S. § 32-9n; and

(x) “public works contract” means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms “Contract” and “contract” do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in C.G.S. § 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in C.G.S. § 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

(b) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the Laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an “affirmative action equal opportunity employer” in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers’ representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the

Contractor agrees to comply with each provision of this Section and C.G.S. §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to C.G.S. §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and C.G.S. § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

(c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.

(e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with C.G.S. § 46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

(f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.

(g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the Laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to C.G.S. § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and C.G.S. § 46a-56.

(h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall

be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with C.G.S. § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

**16.12 Executive Orders.** References in this section to “contract” shall mean this Master PPA and references to “Contractor” shall mean Seller. This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. The Contract may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order 14 and/or Executive Order 49 are applicable, they are deemed to be incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Seller’s request, the Buyer shall provide a copy of these orders to the Seller.

**16.13 Summary of State Ethics Laws.** Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethic Laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of this Master PPA as if the summary had been fully set forth in this Master PPA.

**16.14 Whistleblower Law.** This Master PPA may be subject to the provisions of Section 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Seller takes or threatens to take any personnel action against any employee of the Seller in retaliation for such employee’s disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Seller shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Master PPA. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day’s continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the contractor.

**16.15 Disclosure of Records.** This Master PPA may be subject to the Connecticut Freedom of Information Act (“**FOIA**”), specifically provisions of section 1-218 of the Connecticut General Statutes. In accordance with this statute, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to the FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or

copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.

**16.16 Campaign Contribution Restrictions.** For all state contracts as defined in Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Agreement expressly acknowledges receipt of the State Election Enforcement Commission’s notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice, as set forth in “Notice to Executive Branch State Sellers and Prospective State Sellers of Campaign Contribution and Solicitation Limitations,” attached as Exhibit D.

[SIGNATURE PAGE FOLLOWS]

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

CONNECTICUT GREEN BANK

By: \_\_\_\_\_

Name:

Title: Authorized Signatory

Date:

STATE OF CONNECTICUT DEPARTMENT OF ADMINISTRATIVE SERVICES

By: \_\_\_\_\_

Name:

Title:

Date:

**OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF CONNECTICUT**

*Approved as to form*

By: \_\_\_\_\_

Joseph Rubin

Title: Assistant ~~Associate~~ Deputy Attorney General

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



## EXHIBIT A

### SITE SPECIFIC POWER PURCHASE AGREEMENT

This Site Specific Power Purchase Agreement (the “*Site Specific PPA*”) is made as of \_\_\_\_\_ (the “Effective Date”) by and between, Connecticut Green Bank (the “*Seller*”), a Connecticut quasi-public agency, with a principal place of business at 845 Brook Street, Rocky Hill, CT 06067, acting by \_\_\_\_\_, its \_\_\_\_\_, the State of Connecticut, \_\_\_\_\_ (“*Client Agency*”), with a principal place of business at \_\_\_\_\_, acting by acting by \_\_\_\_\_, its \_\_\_\_\_, and the State of Connecticut, Department of Administrative Services (“*Buyer*”), with a principal place of business at 450 Columbus Boulevard, Hartford, Connecticut 06103. Seller, Client Agency and Buyer may be collectively referred to as the “Parties” or individually as a “Party.”

**WHEREAS**, Seller and Buyer are have entered into that certain Master Power Purchase Agreement dated [Date] (as may be amended, restated or otherwise modified from time to time, the “Master Agreement”);

**WHEREAS**, Client Agency has custody and control over that certain real property, together with all improvements, buildings, and other structures thereon, known as [\_\_\_\_\_], being more particularly described in Schedule 2 attached hereto (the “*Property*”); and

**WHEREAS**, the Parties wish to enter into this Site Specific PPA pursuant to the terms of the Master Agreement to install the solar energy facility, being more particularly described in Schedule 1 attached hereto (the “*SEF*”) on the a potion of the Property, being more particularly described in Schedule 3 attached hereto (the “*Premises*”), which SEF will deliver Energy to the Client Agency and Property pursuant to the terms of the Master Agreement and this Site Specific PPA.

**NOW THEREFORE**, in consideration of these presents, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

1. **Defined Terms**. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Master Agreement.
2. **Representations and Warranties**. Each Party represents and warrants to the other Party, as applicable, 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 Site Specific PPA 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 (other than the State of Connecticut Attorney General); (c) this Site Specific PPA and each other document executed and delivered in accordance with this Site Specific 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 Site Specific 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 Site Specific PPA; (f) it has no knowledge of any facts or circumstances that could materially and adversely affect their respective ability to perform their obligations hereunder, (g) it understands that the other Party is not acting as a fiduciary for or an advisor to it or its Affiliates, and (h) it is not a utility, public utility or a public utility holding company and is not subject to regulation as a utility, public utility or a public utility holding company. Additionally, Client Agency represents and warrants to Seller and Buyer that: (i) to its

knowledge, there are no site conditions or construction requirements (including any Environmental Condition) that would increase the cost of installing the SEF or the Interconnection Equipment at the planned locations or increase any liabilities in connection with the SEF or the Interconnection Equipment; (ii) the information provided to Seller pursuant to this Site Specific PPA as of the Effective Date is true and accurate in all material respects; (iii) it has the supervision, care and control of the Premises; (iv) no electricity generated by the SEF will be used to heat a swimming pool.

3. **Incorporation by Reference; General Obligations.**

- a. The Master Agreement is incorporated herewith by reference into this Site Specific PPA and made part hereof. The Master Agreement, this SSPA, the License associated with the Premises, and all documents incorporated therein shall be considered an Agreement and a single transaction and single agreement. Notwithstanding the forgoing, except as otherwise provided in this Site Specific PPA by specific reference, if any provision contained in this Site Specific PPA conflicts with any provision in Master Agreement, the provision contained in the Master Agreement shall govern and control.
- b. Client Agency shall assume toward the Seller all obligations and responsibilities which the Buyer, under the Master Agreement, has to the Seller, insofar as it is arising out of or associated with the SEF. Seller shall assume toward the Buyer all obligations and responsibilities which the Seller, under the Master Agreement, has to the Buyer, insofar as it is arising out of or associated with the SEF. Client Agency shall have the benefit of all rights, remedies and redress against the Seller that the Buyer, under the Master Agreement, has against the Seller, insofar as it is arising out of or associated with the SEF. Seller shall have the benefit of all rights, remedies and redress against the Client Agency that the Seller, under the Master Agreement, has against the Buyer, insofar as it is arising out of or associated with the SEF.
- c. Client Agency acknowledges and represents to Buyer and Seller that it has carefully examined and reviewed the Master Agreement and is familiar and satisfied with the provisions of the Master Agreement as it may have any effect upon Client Agency's rights or performance under this Site Specific PPA.

4. **Conditions Precedent.** The respective rights and obligations of the Parties under this Master PPA (subject to Section 2.4) are conditioned upon the satisfaction in full (or waiver by Seller) within three hundred and sixty-five (365) days after the Effective Date of (i) the receipt by Seller of final approval from Client Agency's Serving Utility to operate and interconnect the SEF, and (ii) the following:

- a. Seller shall have received financing sufficient to enable it to purchase, construct, operate and maintain the SEF as required by this Site Specific PPA on terms acceptable to the Seller in its sole discretion;
- b. Seller shall have obtained all Governmental Approvals and approvals from [The United Illuminating Company][The Connecticut Light and Power Company d/b/a Eversource] ("***Client Agency's Serving Utility***"), which approvals shall include conditions and terms satisfactory to Seller in its sole discretion, which discretion shall include the right to terminate this Site Specific PPA if capital improvements are required to be made as a condition to receiving an Interconnection Agreement from Client Agency's Serving Utility and such improvements exceed \$0.10/watt and/or are otherwise not economically acceptable to Seller;
- c. Seller shall have entered into an Interconnection Agreement with Client Agency's Serving Utility that qualifies under applicable net metering programs, under which any over-production of energy

is carried as a credit on Client Agency's utility bill against later shortfalls in production of the SEF compared to Client Agency's electricity consumption; and

- d. Completion of a physical inspection of the Premises, including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Premises for the SEF.
  - e. **Commencement of Term.** The term of this Site Specific PPA shall commence on the Effective Date.
5. **Energy Payment Rate.** For the Term of this Site Specific PPA, the applicable Energy payment rate in effect at the time of delivery to the Delivery Point of any Energy is detailed in Schedule 4 attached hereto and made part hereof (the "***Energy Payment Rate***").
  6. **License.** Client Agency shall grant Seller a License to the Premises in accordance with the terms of the Master Agreement.
  7. **Construction Targets.** Commencing on the Effective Date, Seller shall develop the SEF in accordance with the following construction targets (each being a "***Construction Target***"):
    - a. issuance of a full notice to proceed by Seller to its general contractor and commencement of construction of the SEF by [\_\_\_\_\_]; and
    - b. achievement of the Commercial Operation Date by [\_\_\_\_\_], but no later than the Guaranteed Commercial Operation Date.
  8. **Construction Commencement Notice.** Seller shall coordinate with Client Agency a schedule mapping out permitting, Buyer approvals, project milestones and time frames prior to the start of construction activities of the SEF.
  9. **Construction Completion Deadline.** If Commercial Operation of the SEF does not occur on or before [\_\_\_\_\_] (the "***Guaranteed Commercial Operation Date***"), subject to extension due to delays arising out of any Force Majeur events, any Buyer Acts, any Governmental Approvals or approvals from Client Agency's Serving Utility (including the Interconnection Agreement), Client Agency shall have the right to terminate this Site Specific PPA by providing written notice to Seller at any time prior to the date upon which Commercial Operation is achieved.
  10. **Construction Completion Notice; Notice of Commercial Operation.** Seller shall provide at least twenty (20) days' prior written notice to Client Agency and Buyer of the date on which it expects that the Commercial Operation Date will occur. Seller shall notify Client Agency and Buyer when the SEF has achieved Commercial Operation (the "***Notice of Commercial Operation***").
  11. **Special Security Provisions.** Seller and its Representatives shall comply with the special security provisions of Client Agency set forth in Schedule 5 attached hereto and made part hereof.
  12. **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 Client Agency:

[Address]

If to Seller:

Connecticut Green Bank  
845 Brook Street  
Rocky Hill, CT 06067  
Attention: General Counsel

If to Buyer:

State of Connecticut Department of Administrative Services  
Procurement Division  
450 Columbus Boulevard, Suite 1202  
Hartford, CT 06103  
Attention: Paul Greco

- 13. [For drafting consideration – may need to include all applicable Master Agreement miscellaneous terms as well assignment terms herein, if the broader incorporation above is considered too ambiguous]**

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, intending to be legally bound, Parties have signed this Site Specific PPA through their duly authorized representatives effective as of the Effective Date.

[CLIENT AGENCY]

By: \_\_\_\_\_  
Name:  
Title:

CONNECTICUT GREEN BANK

By: \_\_\_\_\_  
Name:  
Title:

STATE OF CONNECTICUT DEPARTMENT OF ADMINISTRATIVE SERVICES

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE 1 TO EXHIBIT A**

**SOLAR ENERGY FACILITY**

The SEF shall consist of an approximately [\_\_\_\_] installation estimated to generate [\_\_\_\_] kWh in its first year in service (the “*Expected System Output*”), installed as a [ground mount / roof mount] system using [\_\_\_\_] (or equivalent) racking and [\_\_\_\_] (or equivalent) modules and [\_\_\_\_] inverters. The SEF shall be interconnected electrically directly to the Delivery Point behind the meter installed on the Property by Client Agency’s Serving Utility.

**SCHEDULE 2 TO EXHIBIT A**  
**DESCRIPTION OF PROPERTY**

[Insert Legal Description]

**SCHEDULE 3 TO EXHIBIT A**  
**DESCRIPTION OF PREMISES**

The Premises shall be that portion of the Property on, under and over which the SEF shall be installed, being that approximate [\_\_\_\_] square foot footprint shown in the figure below [and on the [\_\_\_\_] Site Plan appearing on the following page], in addition to all portions of the Property where trenching, conduit, and metering equipment are required so as to connect the SEF to the Delivery Point.



**SCHEDULE 4 TO EXHIBIT A**

**ENERGY PAYMENT RATE**

Cost of Electricity Per kWh for each year during the Term of this Site Specific PPA

	Energy Payment Rate
YEAR 1	
YEAR 2	
YEAR 3	
YEAR 4	
YEAR 5	
YEAR 6	
YEAR 7	
YEAR 8	
YEAR 9	
YEAR 10	
YEAR 11	
YEAR 12	
YEAR 13	
YEAR 14	
YEAR 15	
YEAR 16	
YEAR 17	
YEAR 18	
YEAR 19	
YEAR 20	

## **SCHEDULE 5 TO EXHIBIT A**

### **SPECIAL SECURITY PROVISIONS**

[as required by each Client Agency – below of draft DOC and Bradley International Airport versions]

#### **a) Security and/or Property Entrance Policies and Procedures**

Contractor shall adhere to established security or property entrance policies and procedures or both for each requesting Client Agency. It is the responsibility of each Contractor to understand and adhere to those policies and procedures prior to any attempt to enter any Client Agency Premises for the purpose of carrying out the scope of work described in this Contract.

#### **b) Department of Correction Requirements for Contractors who Perform at a Correctional Facility**

##### **(1) Facility Admittance**

(A) Contractors shall not allow any of their employees to enter the grounds of or any structures in any Department of Correction (“DOC”) facility (“Facility”) or undertake any part of the Performance unless the employees have first been issued an individual, valid, security identification badge which they shall display properly at all times while at the Facility.

(B) Contractor employees who seek admittance to a DOC Facility must first undergo a background check to confirm their eligibility to be admitted into the DOC Facility. Contractors shall obtain from the DOC a form for each employee and complete and submit that form to DOC at least 10 business days prior to the date that the employee is scheduled to arrive at the DOC Facility for the Performance. Information on the form includes the following:

1. Name
2. Date of Birth
3. Social Security Number
4. Driver's License Number
5. Physical Characteristics (such as age, height, weight, etc.)

##### **(2) Official Working Rules**

Contractors shall adhere to the following Official Working Rules of the DOC:

- (A) All Contractors shall report to the Facility's security front desk for sign-in, regardless of work location, immediately upon arrival at the Facility.
- (B) All Contractor personnel shall work under the observation of an assigned correctional officer or supervisor, who will provide escort for the duration of the work.
- (C) Contractor personnel shall not have any verbal or personal contact with any inmates.

- (D) Equipment must be checked daily and, when not in use, locked in a secure place as the Facility officials may direct.
- (E) Hacksaws, blades and files will remain in the custody of the officer assigned, except when being used.
- (F) The correctional officials may refuse admittance to any Contractor personnel for any cause or reason the correctional officials deem to be sufficient.
- (G) In the event of any emergency, all Contractor personnel will be escorted outside the Facility by correctional officials.
- (H) Contractors shall address all questions pertaining to interruptions of service or to safety of the Facility to the appropriate correctional official.
- (I) Work at the Facility must be Performed between 8:00 a.m. and 12:00 Noon and between 12:30 p.m. and 4:30 p.m., the maximum allowable working day being 8 hours. The Contractor shall not perform any work at any Facility on any Saturday, Sunday or Holiday, unless DOC determines, in its sole discretion, that there is an emergency.
- (J) The Contractor shall ensure that all equipment not in use, is secure to prevent use by inmates.
- (K) The Contractor shall supply to DOC a copy of all material safety data sheets for all products used in the process of construction, construction materials, and products brought onto the Facility.
- (L) All Contractors shall sign out at the Facility's security front desk prior to departure following completion of Performance.

(3) Rules Concerning Department of Correction Facilities

Contractors shall adhere to the Facilities rules ("Facilities Rules") described in this section. At the time that Contractors and Contractor Parties seek to enter a Facility, DOC staff will present to them a document setting forth the following Facilities Rules and extracts of the laws governing the introduction and control of contraband. Contractors and Contractors Parties shall read, understand and sign that document as a condition precedent to entering the Facility and as evidence that they understand the consequences imposed for violating these Facilities Rules:

(A) Restricted Areas

All persons except DOC personnel, upon entering the grounds are restricted to the immediate area of their work assignment. In order to go to other areas, Contractor personnel shall first obtain written permission from the supervisory correctional official in charge. Only persons having official business will be admitted to construction sites.

(B) Inmates

There may be times when inmates may be working adjacent to or in the same area as Contractor or Contractor Parties. All persons are prohibited from accepting or giving anything from and to an inmate. Inmates are accountable to DOC personnel only, no other person will have any conversation or dealings with inmates without the approval of the DOC supervisory official in charge.

(C) Vehicle Control

Any Contractor personnel entering upon the Facility shall remove the ignition keys of their vehicle and lock the vehicle when they leave it for any reason. Contractors shall ensure that all equipment in, on or around the vehicles is secured and inaccessible to anyone else while in the Facility.

(D) Contraband

Contractors shall not bring clothing or contraband into or onto the Facility's grounds or leave clothing or contraband in a vehicle located on the grounds of the Facility outside of an area

designated by DOC personnel. Contraband is defined below and all persons are subject to these DOC Facilities Rules concerning contraband when on the Facility's grounds.

Contractor shall not introduce into or upon, take or send to or from, or attempt the same to or from, the grounds of the Facility anything whatsoever without the knowledge of the Facility supervisor.

“Contraband” means any tangible or intangible article whatsoever which DOC has not previously authorized and may include letters, stamps, tools, weapons, papers, floor implements, writing materials, messages (written and verbal), instruments and the like. Contractors shall discuss any questions regarding such matters with the Facility supervisor immediately upon those questions arising.

Cigarettes and Cell Phones are “contraband.” Accordingly, Contractors shall leave them secured inside their locked vehicles in an area designated by DOC personnel.

Failure to comply with these Facilities Rules, in the sole determination of DOC, will result in the Contractor being removed from the Facility.

(4) State Laws Governing Unauthorized Conveyance, Possession or Use of Items, Weapons and Certain Devices

(A) Unauthorized conveyance of certain items brought into the Facility is governed by Conn. Gen. Stat. Sec. 53a-174, which provides as follows:

1. Any person not authorized by law who conveys or passes or causes to be conveyed or passed, into any correctional or humane institution or the grounds or buildings thereof, or to any inmate of such an institution who is outside the premises thereof and known to the person so conveying or passing or causing such convey or passing to be such an inmate, any controlled drug, as defined in section 21a-240, any intoxicating liquors, any firearm, weapon, dangerous instruments or explosives of any kind, any United States currency, or any rope, ladder or other instrument or device for use in making, attempting or aiding an escape, shall be guilty of a class D felony. [Penalty for a Class “D” felony per Sec. 53a-35 subsection a, b, c, d is a term not to exceed five (5) years.] The unauthorized conveying, passing, or possessing of any rope or ladder or other instrument or device, adapted for use in making or aiding an escape, into any such institution or the grounds or building thereof, shall be presumptive evidence that it was so conveyed, passed or possessed for such use.

2. Any person not authorized by law who conveys into any such institution any letter or other missive which is ~~intended~~intend

3.

2.4.ed for any person confined therein, or who conveys from within the enclosure to the outside of such institution any letter or other missive written or given by any person confined therein, shall be guilty of a class A misdemeanor. [Penalty for a Class "A" misdemeanor per Sec. 53a-36 subsection 1, the term is not to exceed one (1) year.]

3.5. Any person or visitor who enters or attempts to enter a correctional institution or Facility by using a misleading or false name or title shall be guilty of a class A misdemeanor.

(B) Possession of weapons or dangerous instruments in the Facility is governed by Conn. Gen. Stat. Sec. 53a-174a, which provides as follows:

1. A person is guilty of possession of a weapon or dangerous instrument in a correctional institution when, being an inmate of such institution, he knowingly makes, conveys from place to place or has in his possession or under his control any firearm, weapon dangerous instrument, explosive, or any other substance or thing designed to kill, injure or disable.
2. Possession of a weapon or dangerous instrument in a correctional institution is a class B felony. [Penalty for a Class "B" felony per Sec. 53a-35 subsection a, b, c, d is a term not to exceed twenty (20) years.]

(C) Conveyance or use of electronic or wireless communication devices in the Facility is governed by Conn. Gen. Stat. Sec. 53a-174b, which provides as follows:

1. A person is guilty of conveyance or use of an electronic wireless communication device in a correctional institution when such person, without authorization by the Commissioner of Correction or the commissioner's designee, (1) conveys or possesses with intent to convey an electronic wireless communication device to any inmate of a correctional institution while such inmate is in such institution, or (2) uses an electronic wireless communication device to take a photographic or digital image in a correctional institution.
2. Conveyance or use of an electronic wireless communication device in a correctional institution is a Class A misdemeanor.

**c) Badging Requirements for the Connecticut Airport Authority, Bradley International Airport (the Airport)**

- (1) All Contractor employees must pass all standard security requirements (based on activity and location) and pass prescribed driver training before entering Bradley International Airport or engaging in any part of the Performance.
- (2) Contractors shall not allow any of their employees to enter the Airport or undertake any part of the Performance unless the employees shall have first been issued an individual, valid, security identification badge which they shall display properly at all times while at the Airport. The security badge will be issued upon the successful completion of a ten year (10) criminal history records check, and Transportation Security Administration Security Threat Assessment and a training/testing program – all administered by Airport personnel. The cost per person is \$50. This charge is subject to change during the term of the Contract. Persons with felony convictions will be evaluated on an individual basis. The Client Agency may, at any time during the term of the Contract and in its sole discretion, modify the criminal history records check, training, testing program, security and badge requirements. The Contractor shall comply with all such modifications.
- (3) The Contractor shall assign at least one individual, but no more than 3 individuals, to act as an Authorized Supervisor for the airport. Prior to starting Performance, Contractors shall direct the Authorized Supervisors to comply with all of the applicable terms and conditions of this Contract, including doing any and all things which the Authorized Supervisors deem to be necessary or appropriate to ensure full Performance.
- (4) Client Agency shall deliver to the Contractors a copy of the applicable requirements of all federal and state regulations governing aviation security activities prior to Contractors starting Performance. Contractors shall comply fully with all of those requirements and regulations and shall ensure the same for all of their employees who will perform in any way.

- (5) The duties of the Authorized Supervisor are to:
- (A) read, understand and follow fully all of the requirements of all federal and state regulations governing aviation security activities;
  - (B) notify the security badging office or BDL Airport Operations **immediately** of all employee terminations and transfers in writing, which may include via e-mail.
  - (C) return to the security badging office or BDL Airport Operations a termination form with the terminated or transferred employee's security badge along with all other security-related items that had been issued to the employee, including, but not limited to, keys, gate cards and ramp stickers, no later than twenty-four (24) hours after the effective date of the termination or transfer. If the Authorized Supervisor fails to return timely the badge or other security related-item, the Authorized Supervisor shall submit a termination form no later than one (1) week after the effective date of the termination or transfer, along with a written explanation detailing the course of action that has been taken towards retrieving the outstanding item(s);
  - (D) limit the distribution of security related information only to persons with valid, Bradley International Airport security badges and as requested by the Airport Security Coordinator (ASC) or designated representative ;
  - (E) not presign badging applications and complete the entire Authorized Supervisor section of the badging application for all Contractors employees who will Perform under this Contract;
  - (F) report lost or stolen badges in writing immediately to the security badging office and/or Airport Operations on the standard lost/stolen security badge report.
- (6) Contractors shall ensure that the Authorized Supervisors read, understand and follow all of their prescribed such regulations and requirements. Accordingly, prior to starting Performance, and as a condition precedent to any of Contractors' employees being allowed to enter the Airport to Perform, Contractors shall deliver to the Client Agency a document signed by the Authorized Supervisors in the following form:

**BRADLEY INTERNATIONAL AIRPORT**

**AUTHORIZED SUPERVISOR'S ACKNOWLEDGMENT AND ACCEPTANCE OF DUTIES**

I, \_\_\_\_\_, the undersigned, with regard to \_\_\_\_\_ activities at Bradley International Airport (BDL), accept the assignment as an Authorized Supervisor under a certain Contract between \_\_\_\_\_ and the State of Connecticut. I acknowledge and accept that as Authorized Supervisor under that Contract that my duties are to and I shall:

1. read, understand and follow fully all of the requirements of all federal and state regulations governing aviation security activities;
2. notify the security badging office or BDL Airport Operations **immediately** of all employee terminations and transfers in writing, which may include via e-mail.

3. return to the security badging office or BDL Airport Operations a termination form with the terminated or transferred employee's security badge along with all other security-related items that had been issued to the employee, including, but not limited to, keys, gate cards and ramp stickers, no later than twenty-four (24) hours after the effective date of the termination or transfer. If the Authorized Supervisor fails to return timely the badge or other security related-item, the Authorized Supervisor shall submit a termination form no later than one (1) week after the effective date of the termination or transfer, along with a written explanation detailing the course of action that has been taken towards retrieving the outstanding item(s) ;
4. limit the distribution of security related information only to persons with valid, Bradley International Airport security badges and as requested by the Airport Security Coordinator (ASC) or designated representative ;
5. not presign badging applications and complete the entire Authorized Supervisor section of the badging application for all Contractors employees who will Perform under this Contract; and
6. report lost or stolen badges in writing immediately to the security badging office and/or Airport Operations on the standard lost/stolen security badge report.

With my signature below I am verifying that I have received a copy of, and fully understand these requirements and my obligations and that I shall comply fully.

---

Company Name	Signature of Authorized Supervisor	Initials

---

Company Mailing Address	Print Full Name

---

City, State, Zip	Title

---

Phone Number(s)	Fax No.	E-Mail Address

- (7) Contractors shall pay the Client Agency a fee of \$100 per unreturned badges for any terminated or transferred employee and reimburse the Client Agency, no later than thirty (30) days after receiving an invoice from the Client Agency, for any applicable federal or state amounts, penalties or both for which the Client Agency may be held responsible resulting from the

Contractors' failure to follow fully all of the applicable federal and State regulations and other requirements concerning aviation security activities, including, by way of example, but not by way of limitation, \$100 per unreturned badges for any terminated or transferred employee and up to \$11,000 per occurrence for an individual employee's failure to comply with security regulations (including, by way of example, but not by way of limitation, failure to properly display security badge or failure to control access through a controlled access door with a proximity card reader). If Contractors fail to pay the fee or reimburse the Client Agency timely, the Client Agency may, in its sole discretion, demand, and the Contractors shall, return all of the security badges for all of the Contractors' employees. Consequently, DAS shall, at the Client Agency's request, terminate the Contract as to those Contractors. DAS and the Client Agency will take into account such Termination as an indication of Contractors' not being responsible in future leasing and contracting opportunities.

The Client Agency may suspend or terminate security privileges of individual employees pending investigation of any individual who is alleged to have violated any security regulations. Security privileges for the Contractor as an entity may also be suspended or terminated for failure to comply with all security regulations.



**EXHIBIT B**

**LICENSE AGREEMENT**

**Exhibit C**

**Release, Hold Harmless and Indemnification Agreement**

This **Release, Hold Harmless and Indemnification Agreement** (“Agreement”), is made as of

\_\_\_\_\_, 20\_\_\_\_, and is by \_\_\_\_\_ (“Contractor”)

**WITNESSETH:**

WHEREAS, the Contractor has been selected by \_\_\_\_\_. to perform solar powered electricity supply Services at State of Connecticut (“State”) Properties as part of a Power Purchase Agreement (Master PPA) program which includes, but is not limited to, assessments, planning and the installation of solar generated electricity supply to the Client Agency defined in the Master Contract’s Exhibit A.

WHEREAS, \_\_\_\_\_ is willing to award Work to the Contractor provided that the Contractor agrees to waive any liability that \_\_\_\_\_ may have and to indemnify and hold \_\_\_\_\_ harmless from any liability that may arise as a result of performing the Work, and agrees that Contractor not \_\_\_\_\_ is directly responsible to the State for Work and any liabilities arising from Work;

WHEREAS, the Contractor, on behalf of him/herself, successors and assigns agrees to the conditions herein,

NOW, THEREFORE, in consideration of the recitals set forth above, which are incorporated into the body of this Agreement by reference, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the Contractor does hereby agree as follows:

**1. Release and Waiver:** The Contractor hereby releases, waives, relinquishes, absolves, and discharges \_\_\_\_\_, its parent, affiliates and its and their employees, agents, officers, directors, and trustees from any and all liability, damages, costs, and expenses of any nature whatsoever resulting directly or indirectly from the Work awarded to Contractor by \_\_\_\_\_ including, without limitation, any injuries or damages that the Contractor and the employees, contractors, subcontractors, invitees and guests of the Contractor may suffer or incur in connection with the performance or nonperformance of the Work.

**2. Hold Harmless/Indemnification:** The Contractor shall defend, hold harmless, and indemnify \_\_\_\_\_ its parent, affiliates and its and their employees, agents, officers, directors, and trustees from and against any and all liability, losses, claims, damages, costs, attorney(s) fees (at trial or on appeal) and expenses of whatever kind or nature which \_\_\_\_\_ may sustain, suffer or incur, or be required to pay due to damages or losses suffered by any person, including without limitation, the employees, contractors, subcontractors, invitees, and guests of the Contractor arising out of or related to the Work by the Contractor.

**3. Responsible to State:** The Contractor agrees that Contractor not \_\_\_\_\_ is responsible to the State for Work and any liability arising from said Work.

IN WITNESS WHEREOF, Contractor, by its duly authorized agent, has executed this Agreement as of the date set forth above.

**CONTRACTOR:**

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**19PSX\*\*\*\* EXHIBIT \***

**Release, Hold Harmless and Indemnification Agreement**

This **Release, Hold Harmless and Indemnification Agreement** (“Agreement”), is made as of \_\_, 20 , and is by (“Contractor”) for the benefit of the State of Connecticut and any office, department, board, council, commission, institution or other agency of the State of Connecticut (collectively "State").

**WITNESSETH:**

WHEREAS, the Contractor has been selected by G.B. to perform solar powered electricity supply Services at State of Connecticut (“State”) Properties as part of a Power Purchase Agreement (Master PPA) program which includes, but is not limited to, assessments, planning and the installation of solar generated electricity supply to the Client Agency defined in the Master Contract’s Exhibit A.

WHEREAS, the State is willing to award Work to Contractor provided that the Contractor agrees to waive any liability of the State and to indemnify and hold the State harmless from any liability that may arise as a result of performing the Work, and agrees that Contractor not the State is directly responsible to the State for Work and any liabilities arising from Work;

WHEREAS, the Contractor, on behalf of him/herself, successors and assigns agrees to the conditions herein,

NOW, THEREFORE, in consideration of the recitals set forth above, which are incorporated into the body of this Agreement by reference, and other good and valuable consideration, the

receipt and sufficiency of which is hereby acknowledged by the parties hereto, the Contractor does hereby agree as follows:

**1. Release and Waiver:** The Contractor hereby releases, waives, relinquishes, absolves, and discharges the State from any and all liability, damages, costs, and expenses of any nature whatsoever resulting directly or indirectly from the Work awarded to Contractor by the State including, without limitation, any injuries or damages that the Contractor and the employees, contractors, subcontractors, invitees and guests of the Contractor may suffer or incur in connection with the performance or nonperformance of the Work.

**2. Hold Harmless/Indemnification:** The Contractor shall defend, hold harmless, and indemnify the State from and against any and all liability, losses, claims, damages, costs, attorney(s) fees (at trial or on appeal) and expenses of whatever kind or nature which the State may sustain, suffer or incur, or be required to pay due to damages or losses suffered by any person, including without limitation, the employees, contractors, subcontractors, invitees, and guests of the State arising out of or related to the Work by the Contractor.

**3. Responsible to State:** The Contractor agrees that Contractor not the State is responsible to the State for Work and any liability arising from said Work.

IN WITNESS WHEREOF, Contractor, by its duly authorized agent, has executed this Agreement as of the date set forth above.

**CONTRACTOR:**

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit D**

**SEEC Notice to Executive Branch State Sellers and Prospective State Sellers of Campaign  
Contribution and Solicitation Limitations.**

[attached]