

## **SOLAR POWER PURCHASE AGREEMENT**

This SOLAR POWER PURCHASE AGREEMENT (this "Agreement") is made and entered into as of March [31], 2015 (the "Effective Date") by and between CEFIA Holdings LLC, a Connecticut limited liability company ("Seller"), and the Town of Easton, Connecticut, a municipal corporation organized and existing under the laws of the State of Connecticut ("Purchaser"). Each of Seller and Purchaser are sometimes referred to as a "Party" and collectively as the "Parties."

### **RECITALS**

WHEREAS, the Premises (defined below) are owned by Purchaser (in its capacity as owner of the Premises, "Owner");

WHEREAS, Owner and Seller are parties to that certain System Site Lease Agreement dated of even date herewith (the "Site Lease"), pursuant to which Owner has leased to Seller that certain portion of the Premises referred to herein as the Project Site (as defined in the Site Lease) and granted to Seller certain easements on, over, and across the Premises for the installation, maintenance, and operation of the System (defined below);

WHEREAS, Seller desires to install the System on the Project Site and sell the electricity generated from the System to Purchaser, on the terms set forth herein; and

WHEREAS, Purchaser desires to purchase from Seller the electricity generated from the System on the terms set forth herein.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

### **AGREEMENT**

1. **DEFINITIONS.** Capitalized terms used herein shall have the respective meanings set forth in Exhibit A.

2. **PURCHASE AND SALE OF ENERGY.**

2.1 Sale of Energy. Seller shall sell to Purchaser and Purchaser shall purchase from Seller all of the Energy, as and when the same is produced, at the Energy Price in effect at the time of delivery. Seller shall deliver the Energy to the Delivery Point, and Purchaser shall accept the Energy delivered for the full Contract Term.

2.1.1 If Purchaser's electric requirements are less than the Energy produced by the System for any reason other than a Force Majeure, Purchaser shall nevertheless pay for such Energy and, to the extent permitted by applicable law, deliver any excess Energy to Utility in accordance with the Net Metering Rules or sell or exchange the excess Energy to any other buyer. Purchaser recognizes that Seller has an interest in maximizing the output of the System,

and Seller shall not be required to curtail the output of the System at any time due to lack of demand on the part of Purchaser.

2.1.2 To the extent that Purchaser's electricity requirements exceed the Energy produced by the System, Purchaser shall purchase such excess electricity from Utility in accordance with the Net Metering Rules. Purchaser shall be responsible for all charges, applicable taxes, penalties, ratcheted demand or similar charges assessed by Utility for transmission and distribution service and other services necessary to meet the full energy requirements of Purchaser.

2.1.3 Purchaser shall be entitled to the entire Energy output of the System; provided, however, that Seller shall not be required to cause the System to produce a minimum amount of Energy, and Seller is not guaranteeing any particular quantity of Energy production from the System.

2.2 Contract Term. The term of this Agreement shall be for a period of twenty (20) years commencing on the Commercial Operation Date (the "Contract Term").

2.3 Environmental Attributes. Seller shall have all right, title, and interest in and to all Environmental Attributes related to the System. At Seller's expense, Purchaser agrees to reasonably cooperate with Seller in any applications for Environmental Attributes related to the System.

2.4 Environmental Incentives. Any Environmental Incentive related to the System shall be the sole property of Seller. Any Environmental Incentive related to the System that is initially credited or paid to Purchaser shall be assigned by Purchaser to Seller without delay. At Seller's expense, Purchaser agrees to reasonably cooperate with Seller in any applications for Environmental Incentives related to the System.

2.5 Impairment of Environmental Attributes and Incentives. Purchaser shall not take any action or suffer any omission that would have the effect of reducing the production or impairing the value to Seller of the Environmental Attributes and Environmental Incentives. Purchaser shall be responsible for notifying Seller of any action or omission that could impair such value and for consulting with Seller as necessary to prevent impairment of the value of Environmental Attributes and Environmental Incentives.

### **3. THE SYSTEM.**

3.1 Installation, Operation, Replacement, Repair, Maintenance and Removal of the System. Seller shall be responsible for the installation, operation, replacement, repair, maintenance and removal of the System in a manner consistent with Prudent Operating Practice. If the supply of Energy from the System is interrupted as a result of malfunction or other shutdown, Seller shall use commercially reasonable efforts to remedy such interruption. Seller shall comply with all applicable laws and regulations relating to the operation of the System and the generation and sale of Energy, including obtaining and maintaining in effect all relevant approvals and permits, other than permits that, by their nature, can only be obtained by Purchaser.

3.2 Maintenance of Health and Safety. Seller shall take all reasonable safety precautions with respect to the operation, maintenance, repair, and replacement of the System and shall comply with all applicable health and safety laws, rules, regulations, and permit requirements. If Seller becomes aware of any circumstances relating to the Premises or the System that creates an imminent risk of damage or injury to any Person or any Person's property (and, should Purchaser become aware of such circumstances, Purchaser shall promptly notify Seller with respect thereto), Seller shall take prompt action to prevent such damage or injury and shall promptly notify Purchaser. Such action may include disconnecting and removing all or a portion of the System, or suspending the supply of Energy to Purchaser.

3.3 Assistance with Permits and Licenses. Upon Seller's request, Purchaser shall reasonably assist and cooperate with Seller, at Seller's cost, to acquire and maintain approvals, permits, and authorizations or to facilitate Seller's compliance with all applicable laws and regulations related to the construction, installation, operation, maintenance, and repair of the System, including providing any building owner or occupant authorizations, and signing any applications for permits, local utility grid interconnection applications, and rebate applications as are required by law to be signed by Purchaser. Purchaser shall also deliver to Seller copies of any necessary approvals, permits, rebates, or other financial incentives that are required by law in the name or physical control of Purchaser.

3.4 Commercial Operation Date. Seller shall deliver written notice to Purchaser of the occurrence of the Commercial Operation Date.

3.5 Early Termination. In the event that the Commercial Operation Date has not occurred by three hundred and sixty five (365) days from the Effective Date of this Agreement, Purchaser may terminate this Agreement upon thirty (30) days' written notice to Seller delivered at any time prior to the actual Commercial Operation Date; provided, however, that the foregoing date shall be extended on a day-for-day basis for up to three hundred and sixty five (365) consecutive days for any single Force Majeure event occurring after the Effective Date that has the effect of delaying the Commercial Operation Date, or for any delay attributable to Purchaser, including, without limitation, actions by Purchaser which restrict Seller's access to the Premises.

3.6 Seller's Taxes. Subject to Section 3.7, Seller is solely responsible for all income, gross receipts, ad valorem, personal property, or other similar taxes and any and all franchise fees or similar fees relating to the System.

3.7 Purchaser's Taxes. Purchaser is responsible for paying any applicable taxes, charges, levies, and assessments against the Premises. Purchaser is also responsible for paying all sales, use, and other taxes, and any and all franchise fees or similar fees assessed against Purchaser as a result of Purchaser's purchase of the Energy and, in the event that Purchaser exercises the Purchase Option, its purchase and ownership of the System, which fees are not otherwise the obligation of Seller.

3.8 Notice of Damage. Purchaser shall promptly notify Seller of any physical conditions or other circumstances of which Purchaser becomes aware that indicate there has been or might be damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System.

#### 4. PAYMENT AND METERING.

4.1 Consideration for Energy Delivered. As consideration for the delivery of Energy by Seller, Purchaser shall pay for Energy delivered hereunder at the applicable Energy Price.

4.2 Invoicing. Seller shall invoice Purchaser for Energy monthly. Seller shall deliver each invoice within ten (10) Business Days after the end of each monthly billing period. Each invoice shall be levelized and calculated based on the amount of Energy expected to be generated over the course of a year, based on industry best practices, multiplied by the then-applicable Energy Price and divided by twelve (12). The amount due shall be prorated for any partial month during the Contract Term. Purchaser shall pay the amount due to Seller within thirty (30) calendar days after receipt of each invoice. If Purchaser does not pay Seller the amount due on the monthly statement within thirty (30) calendar days after receipt of each monthly statement, such amount shall accrue interest at the Interest Rate from the date due to the date paid.

4.2.1 Annually, but no earlier than July 1 of each calendar year, if the System has not produced at least thirty-five percent (35%) of its expected annual Energy production in kWh, Seller shall amend the levelized repayment schedule created under Section 4.2 to align with a new estimate of that calendar year's expected Energy production. Adoption of the new levelized payment schedule shall require the written consent of both Parties, after which Seller shall invoice Purchaser accordingly for the remainder of that calendar year.

4.3 True-Up. Annually, but no later than fifteen (15) Business Days after the end of each calendar year, Seller shall deliver to Purchaser a statement that shall set out the amount of Energy delivered in kWh during the past calendar year, the then-applicable Energy Price, and the total amount paid to Seller during that calendar year. Such statement shall include sufficient details so that Purchaser can reasonably confirm the accuracy of the statement including, among other details, beginning and ending meter readings. The statement shall describe the amount due from Purchaser to Seller for any overproduction of Energy versus that estimate used in the calculation of the levelized repayment schedule, as described in Section 4.2 above, or the amount due from Seller to Purchaser for any underproduction of Energy versus that estimate. Purchaser shall pay the amount due to Seller, or Seller shall pay the amount due to Purchaser, within thirty (30) calendar days after receipt of each statement. If Purchaser does not pay Seller the amount due within thirty (30) calendar days after receipt of each statement, such amount shall accrue interest at the Interest Rate from the date due to the date paid.

4.4 Disputed Amounts. A Party may in good faith dispute the correctness of any statement (or any adjustment to any statement) under this Agreement at any time within six (6) months following the delivery of the statement (or statement adjustment). In the event that either Party disputes any statement or statement adjustment, such Party shall nonetheless pay the full amount of the applicable statement or statement adjustment (except any portions thereof that are reasonably believed to be inaccurate or are not reasonably supported by documentation, payment of which amounts may be withheld subject to adjustment as hereinafter set forth) on the applicable payment due date, except as expressly provided otherwise elsewhere in this Agreement, and to give notice of the objection to the other Party. Any required payment will be

made within five (5) Business Days after resolution of the applicable dispute, together with interest accrued at the Interest Rate from the due date to the date paid.

4.5 Metering of Delivery. Seller shall measure the amount of Energy supplied to Purchaser at the Delivery Point using a commercially available, revenue-grade metering system. Such meter shall be installed and maintained at Seller's cost. Purchaser shall cooperate with Seller to enable Seller to have reasonable access to the meter as needed to inspect, repair, and maintain such meter. At Seller's option, the meter may have standard industry telemetry and/or automated meter reading capabilities to allow Seller to read the meter remotely. If Seller elects to install telemetry allowing for remote reading, Purchaser shall allow for the installation of necessary communication lines and shall reasonably cooperate in providing access for such installation. The meter shall be kept under seal, such seal to be broken only when the meter is to be tested, adjusted, modified, or relocated. In the event that either Party breaks a seal, such Party shall notify the other Party as soon as practicable.

4.6 Meter Verification. Annually, or earlier if Seller has reason to believe there may be a meter malfunction, Seller shall test the meter and provide copies of such tests to Purchaser. The tests shall be conducted by a qualified independent third party. Seller shall notify Purchaser seven (7) days in advance of each such test, and shall permit Purchaser to be present during such tests. If a meter is inaccurate, Seller shall promptly cause the meter to be repaired or replaced. If a meter is inaccurate by more than two percent (2%) and the duration of such inaccuracy is known, then prior statements shall be adjusted accordingly. If a meter is inaccurate by more than two percent (2%) and it is not known when the meter inaccuracy commenced, then prior statements shall be adjusted for the amount of the inaccuracy on the basis that the inaccuracy persisted during one-half of the period since the prior meter test or, if there shall not have been a prior meter test, since the initial Commercial Operation Date.

4.7 Books and Records. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all statements under this Agreement, for a period of at least two (2) years, and Seller shall grant Purchaser reasonable access to those books, records, and data at the principal place of business of Seller. Purchaser may examine such books and records relating to transactions under, and administration of, this Agreement, at any time during the period the records are required to be maintained, upon request with reasonable notice and during normal business hours.

4.8 Change in Law. The Parties acknowledge and agree that the Energy Price is based on assumptions related to the availability to the Provider of the Environmental Incentives. In the event of the elimination or alteration of one of more Environmental Incentives or any other change in law that results in a material adverse economic impact on Seller or Purchaser in respect to this Agreement, the Parties shall work in good faith to amend this Agreement within thirty (30) Business Days after such elimination or alteration as may be reasonably necessary to restore the allocation of economic benefits and burdens contemplated hereunder by the Parties. If the Parties fail to enter into such an amendment by the end of such thirty (30) Business Day period, Seller may, but shall not be required to, terminate this Agreement. Following such termination, neither Party shall bear any liability to the other Party, and Seller shall remove the System from the Premises at its sole expense within one hundred eighty (180) days of such termination, and restore the Premises and the Project Site to their pre-existing conditions taking

into consideration ordinary wear and tear. If Seller does not so terminate this Agreement, then the Parties shall continue to perform their obligations hereunder as originally contemplated.

## **5. OPTION TO PURCHASE SYSTEM.**

5.1 Grant of Purchase Option. Seller hereby grants to Purchaser the right and option to purchase all of the Seller's right, title, and interest in and to the System on the terms set forth herein ("Purchase Option"). Purchaser may exercise the Purchase Option on the fifth (5th) anniversary of the Commercial Operation Date and on each successive anniversary of the Commercial Operation Date during the remainder of Contract Term, or simultaneously with the termination of this Agreement pursuant to Section 10.2 (collectively, the "Purchase Option Dates"), provided that no Purchaser Event of Default, or any event which with the passage of time will become a Purchaser Event of Default, has then occurred and is ongoing.

5.2 Determination of Purchase Price. Purchaser may, at any time within thirty (30) days following each Purchase Option Date, request a determination of the purchase price under the Purchase Option (the "Purchase Price"). The Parties shall attempt to determine the Purchase Price by mutual agreement. If the Parties have not agreed on the Purchase Price within thirty (30) days after Purchaser's request for a Purchase Price determination, then the Purchase Price shall be the fair market value of the System, as determined by an independent appraiser retained by the Parties (the "Independent Appraiser"), provided that the Purchase Price shall in no event be less than the applicable amount set forth on Exhibit E. The Independent Appraiser shall be an individual who is a member of a national accounting, engineering or energy consulting firm qualified by education, experience, and training to determine the value of solar generating facilities of the size and age and with the operational characteristics of the System, and who specifically has prior experience valuing solar energy generating facilities. The Independent Appraiser shall be reasonably acceptable to Seller. Except as may be otherwise agreed by the Parties, the Independent Appraiser shall not be (or within three (3) years before his or her appointment have been) a director, officer, or an employee of, or directly or indirectly retained as consultant or adviser to, either of the Parties or their respective affiliates. The fair market value assessment of the System shall consider, among other things, the income and savings associated with the System for the remaining portion of the Contract Term, and the System's past and projected performance. The Independent Appraiser shall make a determination of the Purchase Price within thirty (30) days of appointment (the "Price Determination"). Upon making the Price Determination, the Independent Appraiser shall provide a written notice thereof to both Seller and Purchaser, 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 Purchaser wishes to exercise the Purchase Option following the Price Determination, it shall deliver an exercise notice to Seller within ten (10) days of receipt of the Price Determination (the "Exercise Period"). Any such exercise notice shall be irrevocable once delivered. If Purchaser does not exercise the Purchase Option during the Exercise Period, then the Price Determination shall be null and void, and Purchaser 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 Purchaser's expense, provided that in the event Purchaser exercises the Purchase Option, the applicable Price Determination shall be at Seller's expense.

5.3 Terms and Date of System Purchase. The Parties shall consummate the sale of the System to Purchaser no later than forty-five (45) days following Purchaser's exercise of the Purchase Option. On the effective date of such sale (the "Transfer Date") (a) Seller shall surrender and transfer to Purchaser all of Seller's right, title, and interest in and to the System and shall retain all liabilities arising from or relating to the System that arose prior to the Transfer Date; (b) Purchaser shall pay the Purchase Price to Seller in readily available funds, and shall assume all liabilities arising from or relating to the System as of and after the Transfer Date; and (c) both the Seller and the Purchaser shall (i) execute and deliver a bill of sale and assignment of contract rights, together with such other conveyance and transaction documents as are reasonably required to fully transfer and vest title to the System in Purchaser, and (ii) deliver ancillary documents, including releases, resolutions, certificates, third-party consents and approvals, and such similar documents as may be reasonably necessary to complete and conclude the sale of the System to Purchaser. The purchase and sale of the System shall be on an "as-is, where-is" basis, and Seller shall not be required to make any warranties or representations with regard to the System, but Seller shall, to the extent reasonably possible, transfer or assign to Purchaser all manufacturer and third-party warranties with respect to the System or any part thereof.

## **6. TITLE AND RISK OF LOSS.**

6.1 Title. Seller shall at all times retain title to and be the legal and beneficial owner of the System, and the System shall remain the personal property of Seller and shall not attach to or be deemed a part or fixture of the Premises. Seller may file one or more precautionary financing statements in jurisdictions it deems appropriate with respect to the System in order to protect its rights in the System.

6.2 Risk of Loss. Seller shall bear the risk of loss for the System, except to the extent caused by the breach by Purchaser of its obligations under this Agreement, the Site Lease or the negligence or intentional misconduct of Purchaser or its invitees.

6.3 System Casualty. Upon the total damage, destruction, or loss of the System, or, in the reasonable opinion of Seller's insurance provider, the System is determined to have experienced a constructive total loss, Seller shall have the option, in its sole discretion, to repair or replace the System or terminate this Agreement. Seller shall notify Purchaser in writing of its election within thirty (30) days after the date of the damage to the System. Seller shall under all circumstances be entitled to all insurance proceeds with respect to the System. If Seller elects to repair or replace the System, Seller shall undertake such repair or replacement as quickly as practicable. If Seller elects to terminate this Agreement, the termination shall be effective immediately upon delivery of the notice under this Section 6.3. Upon such termination, Seller shall remove the System at its sole expense within ninety (90) days after such termination, and restore the Premises and Project Site to their pre-existing condition taking into consideration ordinary wear and tear.

## **7. FORCE MAJEURE.**

7.1 Force Majeure. To the extent either Party is prevented by an event of Force Majeure from performing its obligations under this Agreement, such Party shall be excused from

the performance of its obligations under this Agreement (other than the obligation to make payments when due). The Party claiming Force Majeure shall use commercially reasonable efforts to eliminate or avoid the Force Majeure and resume performing its obligations; provided, however, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion. The non-claiming Party shall not be required to perform its obligations to the claiming Party corresponding to the obligations of the claiming Party excused by Force Majeure during the pendency of the Force Majeure.

7.2 Notice. In the event of any delay or nonperformance resulting from an event of Force Majeure, the Party suffering the event of Force Majeure shall, as soon as practicable, notify the other Party in writing of the nature, cause, date of commencement thereof and the anticipated extent of any delay or interruption in performance; provided, however, that a Party's failure to give timely notice shall not affect such Party's ability to assert Force Majeure unless the delay in giving notice prejudices the other Party.

## **8. ADDITIONAL COVENANTS.**

8.1 Liens. Purchaser shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim on or with respect to the System or any portion thereof. If Purchaser breaches its obligations under this Section 8.1, it shall promptly notify Seller in writing, shall promptly cause any lien to be discharged and released of record without cost to Seller, and shall indemnify Seller against all claims, losses, costs, damages, and expenses, including reasonable attorneys' fees, incurred in discharging and releasing such lien.

8.2 Additional Purchaser Financial Information. If requested by Seller, Purchaser shall deliver (i) within one hundred twenty (120) days following the end of each fiscal year, a copy of Purchaser's annual report containing audited consolidated financial statements with footnotes for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of Purchaser's quarterly report containing unaudited consolidated financial statements with footnotes for such fiscal quarter. In all cases such financial statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles consistently applied; provided, however, that if any such financial statements are not available on a timely basis due to a delay in preparation or certification, such delay shall not be deemed a Purchaser Event of Default so long as Purchaser diligently pursues the preparation, certification and delivery of the statements.

## **9. REPRESENTATIONS AND WARRANTIES.**

9.1 Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller that:

9.1.1 Purchaser has the requisite capacity to enter into this Agreement and fulfill its obligations hereunder, that the execution and delivery by it of this Agreement and the performance by it of its obligations hereunder have been duly authorized by all requisite action, and that, subject to compliance with and obtaining all required governmental approvals under any applicable regulatory laws or regulations governing the sale or delivery of Energy, the

entering into of this Agreement and the fulfillment of its obligations hereunder does not contravene any law, statute or contractual obligation of Purchaser;

9.1.2 This Agreement constitutes Purchaser's legal, valid and binding obligation enforceable against it in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws now or hereafter in effect relating to creditors' rights generally;

9.1.3 No suit, action or arbitration, or legal administrative or other proceeding is pending or has been threatened against the Purchaser that would have a material adverse effect on the validity or enforceability of this Agreement or the ability of Purchaser to fulfill its commitments hereunder, or that could result in any material adverse change in the business or financial condition of Purchaser; and

9.2 Representations and Warranties of Seller. Seller represents and warrants to Purchaser that:

9.2.1 Seller has the requisite corporate, partnership or limited liability company capacity to enter into this Agreement and fulfill its obligations hereunder, that the execution and delivery by it of this Agreement and the performance by it of its obligations hereunder have been duly authorized by all requisite action of its stockholders, partners or members, and by its board of directors or other governing body, and that, subject to compliance with and obtaining all required governmental approvals under any applicable regulatory laws or regulations governing the sale or delivery of Energy, the entering into of this Agreement and the fulfillment of its obligations hereunder does not contravene any law, statute or contractual obligation of Seller;

9.2.2 This Agreement constitutes Seller's legal, valid and binding obligation enforceable against it in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws now or hereafter in effect relating to creditors' rights generally;

9.2.3 No suit, action or arbitration, or legal administrative or other proceeding is pending or has been threatened against the Seller that would have a material adverse effect on the validity or enforceability of this Agreement or the ability of Seller to fulfill its commitments hereunder, or that could result in any material adverse change in the business or financial condition of Seller; and

9.2.4 Neither the System nor any of Seller's services provided to Purchaser pursuant to this Agreement infringe on any third party's intellectual property or other proprietary rights.

## **10. DEFAULTS/REMEDIES.**

10.1 Seller Event of Default. Each of the following events shall constitute a "Seller Event of Default":

10.1.1 Seller fails to pay to Purchaser any amount when due under this Agreement and such breach remains uncured for five (5) Business Days following notice of such breach to Seller;

10.1.2 (i) Seller commences a voluntary case under any bankruptcy law; (ii) Seller fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against Seller in an involuntary case under any bankruptcy law; or (iii) any involuntary bankruptcy proceeding commenced against Seller remains undismissed or undischarged for a period of sixty (60) days; and

10.1.3 Seller breaches any other material term of this Agreement or the Site Lease and (i) if such breach is capable of being cured within thirty (30) days after Purchaser's notice of such breach, Seller has failed to cure the breach within such thirty (30) day period, or (ii) if Seller has diligently commenced work to cure such breach during such thirty (30) day period but such breach is not capable of cure within such period, Seller has failed to cure the breach within a further one hundred fifty (150) day period (such aggregate period not to exceed one hundred eighty (180) days from the date of Purchaser's notice).

10.2 Purchaser's Remedies. If a Seller Event of Default has occurred and is continuing, Purchaser may terminate this Agreement by written notice to Seller following the expiration of the applicable cure period, and may exercise any other remedy it may have at law or equity, including, in the event such Seller Event of Default occurs and is continuing after the fifth (5th) anniversary of the Commercial Operation Date, exercising the Purchase Option; provided, however, that Purchaser shall have the right but not the obligation to so exercise the Purchase Option as a remedy.

10.3 Purchaser Event of Default. Each of the following events shall constitute a "Purchaser Event of Default":

10.3.1 Purchaser fails to pay to Seller any amount when due under this Agreement and such breach remains uncured for five (5) Business Days following notice of such breach to Purchaser;

10.3.2 (i) Purchaser commences a voluntary case under any bankruptcy law; (ii) Purchaser fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against Purchaser in an involuntary case under any bankruptcy law; or (iii) any involuntary bankruptcy proceeding commenced against Purchaser remains undismissed or undischarged for a period of sixty (60) days;

10.3.3 Purchaser breaches any of its obligations under the Site Lease;

10.3.4 Purchaser (i) unreasonably refuses to execute any document required for Seller to obtain any Environmental Attributes or Environmental Incentives related to the System, or (ii) unreasonably causes any material change to the condition of the Premises that has a material adverse effect on the System; and

10.3.5 Purchaser breaches any other material term of this Agreement and such breach remains uncured for thirty (30) days following notice of such breach to Purchaser.

10.4 Seller's Remedies. If a Purchaser Event of Default has occurred and is continuing, Seller may terminate this Agreement by written notice to Purchaser following the expiration of the applicable cure period. Seller may also exercise any other remedy it may have at law or equity, including recovering from Purchaser all resulting damages, which damages shall include, but not be limited to, projected payments for Energy generated for the remainder of the Contract Term; the cost of removing the System from the Premises; any loss or damage to Seller due to lost or recaptured Environmental Attributes or Environmental Incentives, including, without limitation, lost revenue from the sale of Environmental Attributes to third parties (including any damages due to the early termination of any agreement for such sale), and the recapture of the investment tax credit under Section 48 of the Internal Revenue Code, the grant in lieu of tax credits pursuant to Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, and accelerated depreciation for the System; and all other amounts of any nature due under this Agreement (collectively, the "PPA Damages"). Pending Purchaser's payment of the PPA Damages, Seller may remain on the Premises and sell Energy and Environmental Attributes produced by the System to any third party, which amounts shall be credited to Purchaser against the calculation of PPA Damages due to Seller.

10.5 Waiver of Consequential Damages. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THE PARTIES AGREE THAT TO THE FULLEST EXTENT ALLOWED BY LAW, IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE OR LIABLE, WHETHER IN CONTRACT, TORT, WARRANTY, OR UNDER ANY STATUTE OR ON ANY OTHER BASIS, FOR SPECIAL, INDIRECT, INCIDENTAL, MULTIPLE, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS OR LOSS OR INTERRUPTION OF BUSINESS, ARISING OUT OF OR IN CONNECTION WITH THE SYSTEM OR THIS AGREEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE PPA DAMAGES SHALL NOT BE CONSIDERED CONSEQUENTIAL DAMAGES AND SHALL NOT BE SUBJECT TO THE LIMITATIONS SET FORTH IN THIS SECTION.

10.6 Limitation of Liability. SELLER'S MAXIMUM LIABILITY UNDER THIS AGREEMENT (WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE) SHALL IN NO EVENT EXCEED ONE MILLION DOLLARS (\$1,000,000).

## **11. FINANCING ACCOMMODATIONS.**

11.1 Purchaser Acknowledgment. Purchaser acknowledges that Seller may finance the System and that Seller's obligations may be secured by, among other collateral, a pledge or collateral assignment of this Agreement and a security interest in the System. In order to facilitate such financing, and with respect to any financing Seller of which Seller has notified Purchaser in writing (each, a "Financing Party"), Purchaser agrees as follows:

11.1.1 Consent to Collateral Assignment. Seller shall have the right to assign this Agreement as collateral for financing or refinancing of the System, maintaining Seller's obligations hereunder, and Purchaser hereby consents to the collateral assignment by Seller to any Financing Party of Seller's right, title, and interest in and to this Agreement.

11.1.2 Financing Party's Rights Following Default. Notwithstanding any contrary term of this Agreement:

(a) Financing Party, as collateral assignee, shall be entitled to exercise, in the place and stead of Seller, any and all rights and remedies of Seller under this Agreement in accordance with the terms of this Agreement. Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this Agreement and the System.

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

(c) Upon the exercise of remedies under its security interest in the System, including any sale thereof by Financing Party, whether by judicial proceeding or under any power of sale, or any conveyance from Seller to Financing Party, Financing Party shall give notice to Purchaser of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a Seller Event of Default.

(d) Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Seller under the United States Bankruptcy Code, at the request of Financing Party made within ninety (90) days of such termination or rejection, Purchaser shall enter into a new power purchase agreement with Financing Party or its assignee on substantially the same terms as this Agreement.

11.1.3 Financing Party Cure Rights. Purchaser shall not exercise any right to terminate or suspend this Agreement unless Purchaser has given prior written notice to each Financing Party of which Purchaser has notice. Purchaser's notice of an intent to terminate or suspend must specify the condition giving rise to such right. Financing Party shall have the longer of thirty (30) days and the cure period allowed for a default of that type under this Agreement to cure the condition; provided that if the condition cannot be cured within such time but can be cured within the extended period, Financing Party may have up to an additional ninety (90) days to cure if Financing Party commences to cure the condition within the thirty (30) day period and diligently pursues the cure thereafter. Purchaser's and Seller's obligations under this Agreement shall otherwise remain in effect, and Purchaser and Seller shall be required to fully perform all of their respective obligations under this Agreement during any cure period.

11.1.4 Continuation Following Cure. If Financing Party or its assignee acquires title to or control of Seller's assets and cures all defaults existing as of the date of such change in title or control within the time allowed by Section 11.1.3, then this Agreement shall continue in full force and effect.

11.2 Notice of Defaults and Events of Default. Purchaser agrees to deliver to each Financing Party a copy of all notices that Purchaser delivers to Seller pursuant to this Agreement.

**12. NOTICES.** Any notice required, permitted, or contemplated hereunder shall be in writing and addressed to the Party to be notified at the address set forth below or at such other address or addresses as a Party may designate for itself from time to time by notice hereunder. Such notices may be sent by personal delivery or recognized overnight courier, and shall be deemed effective upon receipt.

To Seller: CEFIA Holdings LLC  
845 Brook Street  
Rocky Hill, Connecticut 06067  
Attention: General Counsel

To Purchaser: Easton Town Hall  
225 Center Road  
Easton, Connecticut 06612  
Attention: First Selectman  
Phone: 203-268-6291

### **13. GOVERNING LAW; VENUE.**

13.1 Choice of Law. This Agreement shall be construed in accordance with the laws of the State of Connecticut, without regard to its conflict of laws principles.

13.2 VENUE. PURCHASER AND SELLER EACH HEREBY IRREVOCABLY SUBMITS IN ANY SUIT, ACTION, OR PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY, WHETHER ARISING IN CONTRACT, TORT, EQUITY, OR OTHERWISE, TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN HARTFORD COUNTY, CONNECTICUT AND WAIVES ANY AND ALL OBJECTIONS TO JURISDICTION THAT IT MAY HAVE UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE. PURCHASER AND SELLER EACH WAIVE ANY OBJECTION THAT IT MAY HAVE (INCLUDING, WITHOUT LIMITATION, ANY OBJECTION OF THE LAYING OF VENUE OR BASED ON FORUM NON CONVENIENS) TO THE LOCATION OF THE COURT IN WHICH ANY PROCEEDING IS COMMENCED.

### **14. INDEMNIFICATION.**

14.1 Seller's Indemnity to Purchaser. Seller shall indemnify, defend, and hold harmless Purchaser (including Purchaser's permitted successors and assigns) and Purchaser's officers and employees (collectively, "Purchaser Indemnified Parties") from and against any and all third-party claims, losses, costs, damages, and expenses, including reasonable attorneys' fees, incurred by Purchaser Indemnified Parties arising from or relating to (i) Seller's breach of this Agreement, or (ii) Seller's negligence or willful misconduct. Seller's indemnification obligations

under this Section 14.1 shall not extend to any claim to the extent such claim is due to the gross negligence or willful misconduct of any Purchaser Indemnified Party.

14.2 Purchaser's Indemnity to Seller. Purchaser shall indemnify, defend, and hold harmless Seller (including Seller's permitted successors and assigns) and Seller's subsidiaries, directors, officers, members, shareholders, and employees (collectively, "Seller Indemnified Parties") from and against any and all third-party claims, losses, costs, damages, and expenses, including reasonable attorneys' fees, incurred by Seller Indemnified Parties arising from or relating to (i) Purchaser's breach of this Agreement, or (ii) Purchaser's willful misconduct. Purchaser's indemnification obligations under this Section 14.2 shall not extend to any claim to the extent such claim is due to the gross negligence or willful misconduct of any Seller Indemnified Party.

## 15. INSURANCE.

15.1 Insurance Required. Each Party shall maintain in full force and effect throughout the Contract Term insurance coverage in the amounts and types set forth on Exhibit C. Each policy of insurance maintained by Purchaser shall (a) name Seller as loss payee (to the extent covering risk of loss or damage to the Premises or the System) and as an additional named insured as its interests may appear (to the extent covering any other risk); and (b) contain endorsements providing that such policy shall not be cancelled or amended with respect to the named insured and its designees without thirty (30) days' prior written notice to Seller. Each Party shall, within ten (10) days of written request therefor, furnish current certificates of insurance to the other Party evidencing the insurance required hereunder.

15.2 Waiver of Subrogation. Each policy of insurance required hereunder shall provide for a waiver of subrogation rights against the other Party, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of that policy.

15.3 No Waiver of Obligations. The provisions of this Agreement shall not be construed in a manner so as to relieve any insurer of its obligations to pay any insurance proceeds in accordance with the terms and conditions of valid and collectable insurance policies. The liabilities of the Parties to one another shall not be limited by insurance.

## 16. CONFIDENTIAL INFORMATION.

16.1 Confidentiality. Except as required by law under the Freedom of Information Act, neither Party (the "Receiving Party") shall use, for any purpose other than performing its obligations under this Agreement, or divulge, disclose, produce, publish, or permit access to, without the prior written consent of the other Party (the "Disclosing Party"), any confidential information of the Disclosing Party. Confidential information includes, without limitation, this Agreement and exhibits hereto; all information or materials prepared in connection with the System; drawings; specifications; techniques; models; data; documentation; Purchaser, supplier, or personnel names and other information related to Purchasers, suppliers, or personnel; pricing policies and financial information; and other information of a similar nature, whether or not reduced to writing or other tangible form, and any other trade secrets. Confidential information

does not include (a) information known to the Receiving Party prior to obtaining the same from the Disclosing Party; (b) information in the public domain at the time of disclosure by the Receiving Party; or (c) information obtained by the Receiving Party from a third party who did not receive same, directly or indirectly, from the Disclosing Party. The Receiving Party shall use the higher of the standard of care that the Receiving Party uses to preserve its own confidential information or a reasonable standard of care to prevent unauthorized use or disclosure of such confidential information. Notwithstanding anything herein to the contrary, the Receiving Party has the right to disclose Confidential Information without the prior written consent of the Disclosing Party (i) as required by any court or other Governmental Authority, or by any stock exchange on which the shares of any Party are listed; (ii) as otherwise required by law; (iii) as advisable or required in connection with any government or regulatory filings, including, without limitation, filings with any regulating authorities covering the relevant financial markets; (iv) to its attorneys, accountants, financial advisors, or other agents, in each case bound by confidentiality obligations; (v) to banks, investors, and other financing sources and their advisors, in each case if any such Person has agreed to abide by the terms of this Section 16.1; (vi) in connection with an actual or prospective merger or acquisition or similar transaction where the party receiving the Confidential Information is bound by the same or similar confidentiality obligations; or (vii) to any Governmental Authority in connection with any Environmental Incentive. If a Receiving Party believes that it will be compelled by a court or other Governmental Authority to disclose Confidential Information of the Disclosing Party, it shall give the Disclosing Party prompt written notice so that the Disclosing Party may determine whether to take steps to oppose such disclosure.

16.2 Irreparable Injury; Remedies. Purchaser and Seller each agree that disclosing Confidential Information of the other Party in violation of the terms of this Article 16 may cause irreparable harm, and that, notwithstanding Section 10.5, the harmed Party may immediately seek any and all remedies available to it at law or in equity, including, but not limited to, injunctive relief from a court of competent jurisdiction.

## **17. MISCELLANEOUS.**

17.1 Assignments. Neither Party shall have the right to assign any of its rights, duties, or obligations under this Agreement without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed. The foregoing notwithstanding, Seller may assign any of its rights, duties, or obligations under this Agreement, without the consent of Purchaser, (i) to any of its affiliates, (ii) to any third party in connection with a financing transaction, or (iii) to any purchaser of the System. If Seller assigns this Agreement to an unaffiliated third party, Seller shall provide advance written notice of such assignment to Purchaser, along with a statement describing the assignee's ability to perform Seller's obligations under this Agreement. Seller shall ensure assignee provides a System performance guarantee to Purchaser, subject to the Purchaser's approval, which approval may not be unreasonably withheld or delayed.

17.2 Entire Agreement. This Agreement and the Site Lease represent the full and complete agreement between the Parties hereto with respect to the subject matter contained herein and supersedes all prior written or oral agreements between the Parties with respect to the subject matter hereof.

17.3 Amendments. This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Purchaser.

17.4 No Partnership or Joint Venture. Seller and Seller's agents, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of Purchaser. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement).

17.5 Headings; Exhibits. The headings in this Agreement are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Agreement. Any Exhibits referenced within and attached to this Agreement, including any attachments to the Exhibits, shall be a part of this Agreement and are incorporate by reference herein.

17.6 Remedies Cumulative; Attorneys' Fees. No remedy herein conferred upon or reserved to any Party shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. If any action, arbitration, judicial reference, or other proceeding is instituted between the Parties in connection with this Agreement, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' and experts' fees and costs incurred in bringing or defending such action or proceeding (at trial and on appeal) and/or enforcing any judgment granted therein.

17.7 Waiver. The waiver by either Party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein. Any such waiver must be in a writing executed by the Party making such waiver.

17.8 Severability. If any part, term, or provisions of this Agreement is determined by an arbitrator or court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect or impair the validity, legality, or enforceability of any other part, term, or provision of this Agreement and shall not render this Agreement unenforceable as a whole. Instead, the part of the Agreement found to be invalid, unenforceable, or illegal shall be amended, modified, or interpreted to the extent possible to most closely achieve the intent of the Parties and in the manner closest to the stricken provision.

17.9 No Public Utility. Nothing contained in this Agreement shall be construed as an intent by Seller to dedicate the System to public use or subject itself to regulation as a "public utility" (as such term may be defined under any applicable law).

17.10 Service Contract. The Parties acknowledge and agree that, for accounting and tax purposes, this Agreement is not and shall not be construed as a capital lease and, pursuant to Section 7701(e)(3) of the Internal Revenue Code, this Agreement is and shall be deemed to be a service contract for the sale to Purchaser of energy produced at an alternative energy facility.

17.11 Forward Contract. The Parties acknowledge and agree that the transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the

United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.

17.12 Publicity. The Parties agree that each may, from time to time, issue press releases regarding the System, provided, however that neither Party shall issue a press release regarding the System without the prior consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Parties shall cooperate with each other in connection with the issuance of such press releases. Purchaser may publicize that it is serving as a host for the System and display photographs of the System in its advertising and promotional materials, provided that such materials shall identify Seller as the owner and developer of the System and shall be consistent with Section 2.3.

17.13 Counterparts and Facsimile Signatures. This Agreement may be executed in counterparts, which shall together constitute one and the same agreement. Facsimile or portable document format (“.PDF”) signatures shall have the same effect as original signatures, and each Party consents to the admission in evidence of a facsimile or photocopy of this Agreement in any court or arbitration proceedings between the Parties.

17.14 Further Assurances.

17.14.1 Additional Documents. Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments, and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition, or delay its compliance with any reasonable request made pursuant to this section.

17.14.2 Certificates. From time to time, Purchaser shall provide within five (5) Business Days after receipt of a written request from Seller (i) a lien waiver from any party purporting to have a lien, security interest, or other encumbrance on the Premises, confirming that it has no interest in the System, or (ii) an estoppel certificate attesting, to the knowledge of Purchaser, of Seller’s compliance with the terms of this Agreement or detailing any known issues of noncompliance, and making such other representations, warranties, and accommodations reasonably requested by the recipient of the estoppel certificate

**[SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, the Parties have caused this Solar Power Purchase Agreement to be duly executed and delivered as of the Effective Date.

**SELLER**

CEFIA Holdings LLC

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

Name: Bryan Garcia

Title: President and CEO



**PURCHASER**

Town of Easton

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

Name: Adam Dunsby

Title: First Selectman



## **EXHIBIT A**

### **DEFINITIONS**

“Agreement” has the meaning set forth in the Preamble.

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

“Commercial Operation Date” means the date when the System is “placed in service” for purposes of Section 48 of the Internal Revenue Code.

“Confidential Information” has the meaning set forth in Section 16.1.

“Contract Term” has the meaning set forth in Section 2.2.

“Contract Year” means the twelve (12) month period commencing on the Commercial Operation Date, and each consecutive twelve (12) month period thereafter during the Contract Term.

“Delivery Point” means the point of interconnection between the System and the Premises’ internal electrical system.

“Effective Date” has the meaning set forth in the Preamble.

“Energy” means electrical energy that is generated by the System, expressed in kWh.

“Energy Price” means, for any Contract Year, the applicable amount set forth on Exhibit D.

“Environmental Attributes” means any and all environmental benefits, air quality credits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to energy generation by a renewable fuel source and its displacement of energy generation by conventional, nonrenewable, and/or carbon-based fuel sources. Environmental Attributes include, but are not limited to, (1) any benefit accruing from the renewable nature of the generation’s motive source; (2) any avoided emissions of pollutants to the air, soil, or water (such as sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), and other pollutants other than those that are regulated pursuant to state or federal law); (3) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and other greenhouse gases that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; (4) any property rights that may exist with respect to the foregoing attributes howsoever entitled; (5) any green tags, renewable energy credits or similar credits, including RECs described in Conn. Gen. Stat. § 16-245a et seq. (“RECs”); and (6) any reporting rights to these avoided emissions, including, but not limited to, green tag or REC reporting rights. Environmental Attributes do not include (i) any energy, capacity, reliability, or other power attributes, (ii) Environmental Incentives, or (iii) emission reduction credits encumbered or used for compliance with local, state, or federal operating and/or air quality permits.

“Environmental Incentives” means any and all financial incentives, from whatever source, related to the construction, ownership, or operation of the System. Environmental Incentives include, but are not limited to, (i) federal, state, or local tax credits; (ii) any other financial incentives in the form of credits, reductions, or allowances that are applicable to a local, state, or federal income taxation obligation; and (iii) other grants, rebates, or subsidies, including utility incentive programs, and any incentive provided through the State of Connecticut Low Emission Renewable Energy Credit (“LREC”) and Zero Emission Renewable Energy Credit (“ZREC”) Programs. Environmental Incentives do not include Environmental Attributes.

“Exercise Period” has the meaning set forth in Section 5.2.

“Financing Party” has the meaning set forth in Section 11.1.

“Force Majeure” means any act or event that delays or prevents a Party from timely performing obligations under this Agreement or from complying with conditions required under this Agreement if such act or event, despite the exercise of reasonable efforts, cannot be avoided by, and is beyond the reasonable control of and without the fault or negligence of, the Party relying thereon as justification for such delay, nonperformance, or noncompliance, which includes, without limitation, an act of God or the elements, extreme or severe weather conditions, explosion, fire, epidemic, landslide, mudslide, sabotage, terrorism, lightning, earthquake, flood, volcanic eruption or similar cataclysmic event, an act of public enemy, war, blockade, civil insurrection, riot, civil disturbance, or strike or other labor difficulty caused or suffered by a Party or any third party beyond the reasonable control of such Party. However, financial cost alone or as the principal factor shall not constitute grounds for a claim of Force Majeure.

“Governmental Authorities” means the United States of America and any political subdivision thereof and any agency, department, commission, board, court, or instrumentality thereof.

“Independent Appraiser” has the meaning set forth in Section 5.2.

“Interest Rate” means an annual rate equal to (a) the rate published in *The Wall Street Journal* as the “Prime Rate” (or, if more than one rate is published, the arithmetic mean of such rates) as of the date payment is due; plus (b) five percentage points (5%); provided, however, that in no event shall the Interest Rate exceed the maximum interest rate permitted by applicable law.

“kWh” means kilowatt-hours.

“Net Metering Rules” means the rules established pursuant to Conn. Gen. Stat. § 16-243h or Conn. Gen. Stat. § 16-244u.

“Owner” has the meaning set forth in the Preamble.

“Party” and “Parties” have the meanings set forth in the Preamble.

“Person” means any individual, corporation (including, without limitation, any non-stock or non-profit corporation), limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or governmental body.

“PPA Damages” has the meaning set forth in Section 10.4.

“Premises” means all the real property and improvements commonly known as Samuel Staples School located at 515 Morehouse Rd, Connecticut 06612, including without limitation, the Project Site, but not the System.

“Price Determination” has the meaning set forth in Section 5.2.

“Prudent Operating Practice” means the practices, methods, and standards of professional care, skill, and diligence engaged in or approved by a significant portion of the electric power industry for solar energy facilities of similar size, type, and design as the System that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with applicable law, reliability, safety, environmental protection, applicable codes, and standards of economy and expedition.

“Purchase Option” has the meaning set forth in Section 5.1.

“Purchase Price” has the meaning set forth in Section 5.2.

“Purchase Option Dates” has the meaning set forth in Section 5.1.

“Purchaser” has the meaning set forth in the Preamble.

“Purchaser Event of Default” has the meaning set forth in Section 10.3.

“Purchaser Indemnified Parties” has the meaning set forth in Section 14.1.

“Seller” has the meaning set forth in the Preamble.

“Seller Event of Default” has the meaning set forth in Section 10.1.

“Seller Indemnified Parties” has the meaning set forth in Section 14.2.

“Site Lease” has the meaning set forth in the Recitals.

“System” means the solar energy generating system described in Exhibit B.

“Transfer Date” has the meaning set forth in Section 5.3.

“Utility” means the United Illuminating Company.

## **EXHIBIT B**

### **DESCRIPTION OF THE SYSTEM**

- Solar module orientation and tilt – Array of 990 modules, Azimuth 180 degrees, Pitch 30 degrees
- Total of 990 Hanwha SolarOne 305 Watt modules, with nameplate capacity of 301.95 kW
- Eight (8) Solectria Renewables 28.0 kW inverters (Model PVI 28TL-480)
- Generic 2-high portrait, pile driven ground mounting system
- Projected output of 367,200 / kWh a year
- All equipment carrying manufacturer warranties, including at least 20-yr warranties on both modules and inverters

## EXHIBIT C

### INSURANCE REQUIREMENTS

(a) Seller shall obtain and maintain the following insurance policies:

(i) Comprehensive general liability insurance against liability for injury to or death of any Person or damage to property in connection with the use, operation or condition of the System of not less than two million dollars (\$2,000,000) combined single limit per occurrence and annual aggregate. Purchaser shall be named as an additional insured under this liability insurance, provided however that Seller shall in no event be obligated to repair or replace Purchaser's buildings or Premises;

(ii) Seller may satisfy the insurance requirements contained in this Agreement though any combination of primary and/or excess coverage; and

(iii) Seller may elect to self-insure any or all of the insurance requirements contained in this Agreement.

(b) Purchaser shall obtain and maintain the following insurance policies:

(i) Workers' compensation insurance, with limits of liability at least equal to the statutory requirements therefor;

(ii) Employer's liability insurance of not less than one million dollars (\$1,000,000);

(iii) Comprehensive general liability insurance against liability for injury to or death of any Person or damage to property in connection with the use, operation or condition of the Premises of not less than two million dollars (\$2,000,000) combined single limit per occurrence and annual aggregate. Seller shall be named as an additional insured under this liability insurance;

(iv) Property insurance on the Premises, written on an "all risk" or broad special perils form, in an amount equal to the full current replacement value of the property, on an agreed value (no coinsurance) basis, and with a deductible not to exceed \$10,000. Such coverage may be written as part of a blanket property policy, but if written as part of a blanket policy Purchaser must provide evidence that the policy does not include a margin clause, or, if there is a margin clause, that the value declared is equal to the full current replacement value of the property. Seller must be named as loss payee on the policy with ISO form CP 12 18 06 07 Loss Payable Provisions, Clause D, or equivalent, and the policy must provide for ten (10) days' notice to Seller in the event of cancellation or nonrenewal;

(v) Purchaser may satisfy the insurance requirements contained in this Agreement though any combination of primary and/or excess coverage; and

(vi) Purchaser may elect to self-insure any or all of the insurance requirements contained in this Agreement.

**EXHIBIT D**

**ENERGY PRICE**

<i>Contract Year</i>	<i>Energy Price (\$/kWh)</i>
1	\$0.093
2	\$0.093
3	\$0.093
4	\$0.093
5	\$0.093
6	\$0.093
7	\$0.093
8	\$0.093
9	\$0.093
10	\$0.093
11	\$0.093
12	\$0.093
13	\$0.093
14	\$0.093
15	\$0.093
16	\$0.093
17	\$0.093
18	\$0.093
19	\$0.093
20	\$0.093

**EXHIBIT E**

**MINIMUM SYSTEM PURCHASE PRICE**

<i>Contract Year</i>	<i>Minimum System Purchase Price</i>
5	\$488,062
6	\$440,202
7	\$404,273
8	\$381,286
9	\$356,632
10	\$330,168
11	\$301,739
12	\$271,175
13	\$238,295
14	\$202,899
15	\$164,773
16	\$123,683
17	\$102,520
18	\$79,716
19	\$55,132
20	\$28,615