

POWER PURCHASE AND LICENSE AGREEMENT

BETWEEN

CEFIA Holdings, LLC

AND

Town of Easton, Connecticut

DATED AS OF July 24, 2018

POWER PURCHASE AND LICENSE AGREEMENT

THIS POWER PURCHASE AND LICENSE AGREEMENT (this "**PPA**") is made and entered into as of **JULY 24, 2018** (the "**Effective Date**"), by and between CEFIA Holdings, LLC, a Connecticut limited liability company with offices at 845 Brook Street, Rocky Hill, CT 06067 ("**Seller**"), and Town of Easton, Connecticut, a municipal corporation organized and existing under the laws of the State of Connecticut with offices at 225 Center Road, Easton, CT 06612 ("**Buyer**"). Seller and Buyer are sometimes hereinafter referred to individually as a Party and collectively as the Parties.

RECITALS

A. Buyer is the fee simple owner of all that certain real property together with all improvements, buildings, and other structures thereon known as Samuel Staples Elementary School, as more particularly described on Exhibit B attached hereto (the "**Premises**").

B. Seller agrees to finance, own and operate a solar energy facility, as more particularly described in Exhibit A (the "**SEF**"), on the Premises. Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, all of the Energy generated by the SEF during the Term (as defined below) and otherwise in accordance with the terms of this PPA.

C. Seller desires to obtain, and Buyer desires to provide, an exclusive license for Seller's access to and use of the Premises for the construction, installation, maintenance and operation of and sale of electricity from the SEF.

AGREEMENT

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

ARTICLE 1.

DEFINED TERMS; RULES OF INTERPRETATION

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

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

ARTICLE 2.

TERM

2.1 Term. The initial term of this PPA (the "**Term**") shall commence on the Effective Date and shall be in effect until the twentieth (20th) anniversary of the Commercial

Operation Date, provided that, upon the subsequent mutual agreement in writing of the Parties, the Term may be extended for two (2) successive, additional terms of five (5) years each.

2.2 Conditions Precedent. The respective rights and obligations of the Parties under this PPA (subject to Section 2.4) are conditioned upon the satisfaction in full (or waiver by Seller) within three hundred and sixty-five (365) days after the Effective Date of (i) the receipt by Seller of final approval from Buyer'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 PPA on terms acceptable to the Seller in its sole discretion;

(b) Seller shall have obtained all Governmental Approvals and approvals from Buyer'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 PPA if capital improvements are required to be made as a condition to receiving an interconnection agreement from Buyer'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 Buyer's Serving Utility that qualifies under applicable net metering programs, under which any over-production of energy is carried as a credit on Buyer's utility bill against later shortfalls in production of the SEF compared to Buyer's electricity consumption;

(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) Prior to commencement of construction of the SEF, Buyer has reviewed and accepted (such acceptance shall not be unreasonably withheld, conditioned or delayed) Seller's construction plans, including lists of equipment and engineering evaluations of the SEF and the location of equipment, and such plans have not been substantially changed since Buyer's review and acceptance;

(f) Seller has delivered to Buyer current certificates of insurance evidencing that Seller has obtained the insurance required under Section 7.2 of this PPA.

2.3 Notice of Commercial Operation. Unless otherwise agreed by the Parties, and subject to the remaining provisions of this PPA, Seller shall notify Buyer when the SEF has achieved Commercial Operation (the "*Notice of Commercial Operation*").

(a) **Construction Commencement Notice.** Seller shall provide Buyer with no less than three (3) days advance written notice of the commencement of construction of the SEF, which notice shall include reasonably satisfactory evidence that Seller has obtained all Governmental Approvals necessary for Seller to begin construction of the SEF.

(b) **Construction Completion Deadline.** If Commercial Operation of the SEF does not occur on or before the date that is three hundred and sixty-five (365) days after the date construction commenced as referenced in the notice provided pursuant to Section 2.3(a) herein, either Party hereto shall have the right to terminate this PPA by providing written notice to the other at any time prior to the date upon which Commercial Operation is achieved.

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

ARTICLE 3. PURCHASE AND SALE; DELIVERY, GOVERNMENTAL CHARGES

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

3.2 Price for Energy Output. Buyer shall pay Seller for all of the Energy delivered to the Delivery Point, as metered at the Metering Device, and for any Imputed Energy, at the applicable Energy Payment Rate. The payment to be made by Buyer to Seller shall equal the Energy and Imputed Energy for the relevant period multiplied by the Energy Payment Rate for such period.

3.3 Energy Payment Rate. During the period commencing on the Effective Date and ending on the last day of the Term before the first anniversary of the Commercial Operations Date Buyer shall pay for Energy delivered to the Delivery Point at a rate (the "***Energy Payment Rate***") equal to 9.3 cents (\$0.093) per kilowatt hour. Seller shall not make or add any demand, delivery or other incidental charges to the Energy Payment Rate. In all cases, any adjustments in the Energy Payment Rate shall be made to the nearest thousandth (.001) of a cent.

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

3.5 Governmental Charges.

(a) Except as set forth in Section 3.5(b), Seller is responsible for paying all local, state and federal income taxes attributable to Seller for income received under this PPA.

(b) Buyer is responsible for paying all sales & use taxes ("***SUT***") assessed against Buyer due to Buyer's purchase of Energy. Such SUT shall also be reimbursed to

Seller, should Seller, not Buyer, be assessed such SUT due to the Buyer's purchase of Energy.

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

3.6 Insolation. Buyer understands that unobstructed access to sunlight ("**Insolation**") is essential to Seller's performance of its obligations and a material term of this PPA. Buyer shall not in any way cause and, where possible, shall not in any way permit any interference with the SEF's Insolation. If Buyer becomes aware of any activity or condition that could diminish the Insolation of the SEF, Buyer shall notify Seller immediately and shall cooperate with Seller in preserving the SEF's existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 3.6 against Buyer.

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

ARTICLE 4.

ENVIRONMENTAL ATTRIBUTES AND TAX BENEFITS

4.1 Title to SEF, Environmental Attributes, Capacity Attributes and Tax Benefits. All Environmental 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 Capacity Attributes and 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 SEF at all times during the Term of this PPA, which SEF shall (i) at all times retain the legal status of personal property of Seller as defined under Article 9 of the Uniform Commercial Code and (ii) not attach to or be deemed a part of, or fixture to, the 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. 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 this PPA to be treated as a "service contract" within the meaning of section 7701(e)(3) of the Internal Revenue Code.

4.2 Further Assurances. Promptly upon Seller's request and provided Seller is not in default hereunder, Buyer shall execute all such documents and instruments (including, but not limited to, assignments, consents and acknowledgments) reasonably necessary or desirable to (i) effect, evidence or transfer to Seller all right, title and interest in and to the Environmental 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 Buyer's Serving Utility, Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity. If the standards used to qualify the Capacity Attributes or Environmental Attributes to which Seller is entitled under this 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 Capacity Attributes or Environmental Attributes to comply with new standards as changed or modified.

4.3 Promotion and Branding. Nothing in this PPA is intended to preclude Buyer or Seller from distributing advertising or other promotional material highlighting the purchase and use of renewable energy from the SEF for commercial or branding purposes, provided that neither Party shall be permitted to release to the public any such material regarding the SEF or the use of renewable energy therefrom without the prior review and approval of the other Party, which approval shall not be unreasonably withheld, conditioned or delayed. 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) corporate name, logo or other identification in any marketing, promotion, branding or other written, spoken or electronic communications without the express written permission of the other Party.

ARTICLE 5.
LICENSE, CONSTRUCTION, MAINTENANCE AND MONITORING

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

(a) Seller shall, at its sole cost and expense, (i) on or before one (1) year after the Effective Date, 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) operate and 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 PPA and all Laws in all material respects, and (iii) 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 Premises, 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 Premises and surrounding property outside of the Premises so long as Seller does not unreasonably interfere with Buyer's ability to conduct its business or utilize the Premises. Seller shall have the right to take reasonable action to restrict the right of persons to obtain access to the portion of the SEF on the Premises and Buyer will cooperate with Seller in connection with these actions.

(b) Buyer grants to Seller and to Seller's agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the "**License**") for access to, on, over, under and across the Premises for the purposes of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the SEF; (ii) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this PPA; and (iii) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the 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. Seller shall notify Buyer 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 one hundred and twenty (120) days following the date of expiration or termination of this PPA (the "**License Term**"). During the License Term, Buyer shall make reasonable efforts to ensure that Seller's rights under the License and Seller's access to the Premises are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access. Buyer agrees that Seller, upon request to Buyer, may record a memorandum of license in the land records respecting the License in form and substance reasonably acceptable to the 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 sub-contractors, agents, consultants, and representatives shall comply with Buyer's safety, insurance and security procedures (as may reasonably be promulgated from time to time),

and Seller and its sub-contractors, agents, consultants and representatives shall conduct such activities in such a manner and such a time and day as to not unreasonably interfere with Buyer's activities. This requirement of access shall not be construed to confer a leasehold on the Seller.

(d) Notwithstanding any provision of Section 5.1(b) or 5.1(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. For purposes of this Agreement, "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.

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

(f) Seller may modify, alter, expand or otherwise change the SEF without the prior written consent of Buyer as required by Prudent Utility Practices or applicable Law, so long as such modifications, alterations, expansions or other changes would not reasonably be expected to 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 promptly 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.

5.2 Buyer's Obligations.

(a) Buyer shall maintain the Premises and shall not take any actions on the Premises that would cause shading of the SEF or otherwise 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 Premises.

(c) To the extent there is any mortgage, lien or similar instrument encumbering the Premises, upon Seller's request, Buyer shall assist Seller, at no cost to Buyer, in obtaining a subordination, nondisturbance and attornment agreement executed by

such creditor such that Seller's operation of the SEF remains undisturbed throughout the Term.

(d) Upon Seller's request, Buyer shall assist Seller and cooperate with Seller, as reasonably necessary and appropriate, but without 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 Premises, 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.

(e) Buyer shall maintain the Site Electrical System in good condition and repair so as to be able to receive the Energy. Buyer will maintain its connection and service contract(s) with Buyer's 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.

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

5.3 Telemetry. Seller shall provide a means for Buyer to access real-time data or telemetry with respect to the SEF's performance. Subject to Section 4.3 above, Seller retains the right to use telemetry and monitoring other data concerning the performance of the SEF for evaluative, maintenance, and promotional purposes.

5.4 Liens. Other than a Financing Party's security interest in the SEF, Seller 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 of any nature ("***Liens***") on or with respect to the Premises or any interest therein. Seller also shall pay promptly before a fine or penalty may attach, any taxes, charges or fees of whatever type of any relevant Governmental Authority, relating to the SEF or to any work performed hereunder by Seller or its agents and subcontractors on the Premises. If a claim is made or a Lien is imposed on the Premises by any contractor, subcontractor or third party arising out of work in connection with the SEF, Seller shall have the obligation to notify Buyer in writing promptly, and (i) defend and indemnify Buyer against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing the claim or Lien, and (ii) (A) either to make such payment as necessary to discharge the claim or Lien within thirty (30) days or

(B) at Seller's sole cost, challenge the validity of the claim or Lien and post a bond reasonably acceptable to the Buyer in an amount equal to at least 100% of the amount of the claim or Lien.

ARTICLE 6. METERING DEVICE AND METERING

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

6.2 Measurements. Readings of the Metering Device shall be conclusive as to the amount of Energy output; *provided, however*, that if the Metering Device is out of service, is discovered to be inaccurate pursuant to Section 6.3, or registers inaccurately, measurement of Energy to the Delivery Point shall be determined in the following sequence: (a) by estimating by reference to quantities measured during periods of similar conditions when Metering Device was registering accurately; or (b) if no reliable information exists as to the period of time during which such Metering Device was registering inaccurately, it shall be assumed for correction purposes hereunder that the period of such inaccuracy for the purposes of the correction under Section 6.3 was equal to (i) if the period of inaccuracy can be determined, the actual period during which inaccurate measurements were made; or (ii) if the period of inaccuracy cannot be determined, one-half of the period from the date of the last previous test of such Metering Device through the date of the adjustments; *provided, however*, that, in the case of clause (ii), the period covered by the correction under Section 6.3 shall not exceed twelve (12) months.

6.3 Testing and Correction.

(a) Upon Buyer's reasonable request, but in no event more than once every twelve (12) months, Seller shall inspect and test the Metering Device for accuracy. Each Party and its consultants and Representatives shall have the right to witness each test of the Metering Device to verify the accuracy of its measurements and recordings. Seller shall provide at least ten (10) days prior written notice to Buyer of the date upon which any such test is to occur. Seller shall prepare a written report setting forth the results of each such test, and shall provide Buyer with copies of such written report not later than thirty (30) days after completion of such test. Subject to Section 6.3(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 shall, within thirty (30) days after receiving such notice from Buyer or Buyer shall, within such time after having received such notice from Seller, advise the other Party in writing as to its position concerning the accuracy of such Metering Device and state reasons for taking such position.
- (iii) If the Parties are unable to resolve the dispute through reasonable negotiations, then either Party may cause the Third Party Monitor to test the Meter.
- (iv) If the Metering Device is found to be inaccurate by not more than five percent (5%), any previous recordings of the Metering Device shall be adjusted in accordance with Section 6.2(b)(i) and the party claiming such inaccuracy shall bear the cost of inspection and testing of the Metering Device.
- (v) If the Metering Device is found to be inaccurate by more than five percent (5%) or if such Metering Device is for any reason out of service or fails to register, then (A) Seller shall promptly cause any Metering Device found to be inaccurate to be adjusted to correct, to the extent practicable, such inaccuracy, (B) the Parties shall estimate the correct amounts of Energy delivered during the periods affected by such inaccuracy, service outage or failure to register as provided in Section 6.2, and (C) Seller shall bear the cost of inspection and testing of the Metering Device. If as a result of such adjustment the quantity of Energy output for any period is decreased, Seller shall reimburse Buyer within thirty (30) days for the amount paid by Buyer in consideration for the decrease. If as a result of such adjustment the quantity of Energy output for any period is increased, Buyer shall pay Seller within thirty (30) days for the additional quantity of Energy at the Energy Payment Rate applicable during the applicable period.

6.4 Live Meter Maintenance. Buyer acknowledges and understands that the SEF is installed behind the current electric utility meter located on the Premises (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 Buyer’s Serving Utility, becomes insolvent, Bankrupt, or enters into any condition that threatens the live nature of the Meter, Seller shall have the unilateral and exclusive right to transfer the account for the Meter into Seller’s name for the duration of the Term.

ARTICLE 7.
LOSS, DAMAGE OR DESTRUCTION OF SEF; INSURANCE; FORCE MAJEURE;
PAYMENTS FOR TEMPORARY SHUT DOWN

7.1 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 negligent or willful acts or omissions of Buyer or Buyer's agents, Representatives, customers, vendors, visitors, or invitees or (ii) any breach of the PPA by Buyer (collectively, the circumstances set forth in clause (i) or (ii), "*Buyer Act*").

(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, this PPA will remain in full force and effect and Seller will, at Seller's sole cost and expense, subject to Section 7.1(c) below, repair or replace the SEF as quickly as practicable.

(c) To the extent that any SEF Loss, which in the reasonable judgment of Seller, results in less than total damage or destruction or loss of the SEF, is caused by Buyer Act, Buyer shall promptly, upon demand therefor from Seller, pay the reasonable 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 substantially damaged during the last five (5) years of the Term, Seller shall, within thirty (30) Business Days following written notice from the Buyer of the occurrence of such 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, this PPA 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 PPA 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 promptly upon demand therefor from Seller pay any and all costs and expenses of such repair or replacement caused by such Buyer Act.

7.2 Insurance.

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

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

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

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

(e) Seller shall be permitted to satisfy the insurance requirements in this Section 7.2 with any combination of general liability and umbrella policies or self-insured retentions, provided any self-insured retention is reasonably acceptable to Buyer.

7.3 Performance excused by Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this PPA and such Party (the "***Claiming Party***") gives notice and details of the Force Majeure event to the other Party as soon as practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, then the Claiming Party will be excused from the performance of its obligations under this PPA affected by the Force Majeure event (other than the obligation to make payments under this PPA) for a period equal to the effect of the disabling Force Majeure circumstances. The Party affected by Force Majeure will use commercially reasonable efforts to eliminate or avoid the Force Majeure and resume performing its obligations; *provided, however*, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion.

7.4 Termination due to Force Majeure. If a Claiming Party claims a Force Majeure for a consecutive period of twelve (12) calendar months or longer, the non-Claiming Party may terminate this PPA, in whole or in part, without any liability to the Claiming Party as a result of such termination (except with respect to payment of amounts accrued prior to termination and actions or omissions that occur prior to termination) by providing written notice of such termination at any time prior to the date upon which the obligation prevented by such Force

Majeure has been satisfied. Without limiting the generality of the foregoing, if Seller does not deliver Energy from the SEF to Buyer for a continuous period of twelve (12) months for any reason other than Buyer's default hereunder, Buyer shall have the right to terminate this PPA by delivering written notice of such termination at any time prior to the date upon which the SEF resumes the production of Energy.

7.5 Payment for Temporary Shutdown of SEF or Reduced Energy Output. In the event (a) Buyer needs to conduct any type of work on the Premises or Site Electrical System that will require the shutdown of the SEF, (b) Buyer or any Person within Buyer's control causes any disruption on the Premises which will require, or otherwise causes, Seller to cease making deliveries of Energy, or otherwise causes the SEF to shut down, or (c) Buyer or any Person in Buyer's control causes a reduction in Energy output from the SEF, whether from disruption on the Premises or otherwise, Buyer's payments due hereunder shall be adjusted to compensate Seller for the Imputed Energy during the period in which Energy cannot be or is not generated and delivered to Buyer during such shutdown, together with the value of Environmental Attributes and Tax Benefits relating to such Imputed Energy. The payment adjustment shall be equal to the sum of: (1) the value of Imputed Energy determined on the basis of the historical performance of the SEF during the applicable time period during the calendar year immediately prior to the suspension (i.e. based on seasonality and actual performance, e.g. if the interruption is from June 1 through June 10 then the lost revenue shall be based on the SEF's performance from June 1 – June 10 of the previous year – and if such interruption occurs during the first calendar year following the Commercial Operation Date, such lost revenue shall be measured using the Expected System Output for the applicable time period); (2) the value of Environmental Attributes relating to such Imputed Energy; (3) the value of lost Tax Benefits; and (4) Seller's actual costs of connecting or disconnecting the SEF from or to the Premises. For purposes of this PPA, the value of Environmental Attributes shall be determined based on the greater of the value at which Seller had contracted to sell those Environmental Attributes or the spot market value.

ARTICLE 8. EVENTS OF DEFAULT; REMEDIES

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

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

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

(c) the failure to perform any material covenant or obligation set forth in this PPA if such failure is not remedied within thirty (30) days after receipt of written notice from the Non-Defaulting Party; provided, however, that, if despite due diligence such default is not capable of cure within thirty (30) days, the Defaulting Party shall have such additional

time as is reasonably necessary to cure such default, provided the Defaulting Party diligently pursues such cure and completes same within ninety (90) days after the receipt of such notice;

(d) such Party becomes Bankrupt; or

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

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

8.3 Seller Remedies. (a) If an Event of Default of Buyer has occurred and is continuing, Seller has the right in its sole discretion, without obligation, to take any and all action reasonably necessary to cure such Buyer Event of Default.

(b) 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) terminate this PPA by providing five (5) days prior written notice of such termination to Seller and (ii) in the event that Seller terminates this PPA subject to (i) herein, Buyer shall pay a Termination Payment to Seller.

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

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

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

ARTICLE 9. INVOICING AND PAYMENT

9.1 Invoicing and Payment. 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, all invoices under this PPA will be due and payable not later than twenty (20) days after receipt of the applicable invoice. Each Party will make payment by check, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the applicable due date will accrue interest at the Late Payment Interest Rate until paid in full.

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

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

9.4 Records and Audits. Each Party will keep, for a period not less than two (2) years after the expiration or termination of any Transaction, records sufficient to permit verification of the accuracy of billing statements, invoices, charges, computations and payments for such Transaction. During such period each Party may, at its sole cost and expense, and upon reasonable notice to the other Party, examine the other Party's records pertaining to Transactions during such other Party's normal business hours. Notwithstanding the foregoing, in the event that Buyer conducts an audit and discovers an inaccuracy in Seller's invoices, charges, computations and payments required for a Transaction in an amount in excess of five percent (5%), Buyer shall be

entitled to recover the cost and expense of the audit in addition to the other corrective actions required as a result of said audit.

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

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

10.1 Representations and Warranties. Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (b) the execution, delivery and performance of this PPA are within its powers, have been duly authorized by all necessary action, do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Law applicable to it and do not require the consent of any third party; (c) this PPA and each other document executed and delivered in accordance with this PPA constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any bankruptcy, insolvency, reorganization and other Laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the applicable court; (d) it is acting for its own account, and has made its own independent decision to enter into this PPA, and is not relying upon the advice or recommendations of the other Party in so doing; (e) it is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this PPA; and (f) it understands that the other Party is not acting as a fiduciary for or an advisor to it or its Affiliates. Buyer represents and warrants to Seller 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 Interconnection Equipment at the planned locations or increase any liabilities in connection with the Interconnection Equipment; (ii) the information provided to Seller pursuant to this PPA as of the Effective Date is true and accurate in all material respects; (iii) Buyer has fee simple and clear title to the Premises, subject only to the Permitted Encumbrances; and none of the Permitted Encumbrances would reasonably be expected to adversely impact Seller's rights hereunder or under this PPA; (iv) no electricity generated by the SEF will be used to heat a swimming pool; (v) Buyer is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company and (vi) each Party has no knowledge of any facts or circumstances that could materially and adversely affect their respective ability to perform their obligations hereunder.

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

10.3 Seller Covenants. Seller agrees as follows:

(a) Seller shall be responsible for the identification (including applicable inspection and notification requirements), cleanup, removal, remediation and disposal in

accordance with applicable Law of any Hazardous Materials (i) brought to the Premises by Seller or its employees, representatives, agents or contractors or (ii) generated or otherwise created in connection with, or by, the SEF. Seller shall also notify the Buyer prior to delivery of any known Hazardous Materials to the Premises.

(b) Seller's Representative contracted to operate and maintain the SEF shall be available (i) to respond to emergencies involving public safety by cell phone or text message from the Chief of Police of the Town of Easton or the Chief of the Fire Department of the Town of Easton twenty four hours per day, seven days per week and (ii) otherwise be available to Buyer to address and make decisions on operational matters during standard business hours. The name and contact information of such Representative will be provided on or prior to the Commercial Operation Date.

(c) Seller's performance of any and all services pursuant to the PPA shall be in compliance with applicable Law.

(d) Seller shall provide the services required of it in accordance with this PPA in conformance with Prudent Utility Practice and that at all times the Seller or its Representatives shall be qualified and professionally competent to carry out said services, and at all times the Seller or its Representatives shall possess all licenses and/or certifications, if any, required to perform said services.

ARTICLE 11. INDEMNITY; LIMITATIONS

11.1 Indemnity. To the fullest extent permitted by law, each Party (the "**Indemnitor**") hereby indemnifies and agrees to defend, protect, and hold harmless the other Party and its Representatives (the "**Indemnified Parties**") from and against any and all claims, losses, liabilities, damages, costs and expenses (including attorneys' fees) ("**Indemnity Claims**") caused by, resulting from, relating to or arising out of (A) any breach of this PPA by the Indemnitor or any of its Representatives, (B) with respect to Seller, any infringement of any third party's intellectual property or other proprietary rights, (C) or any negligence or intentional misconduct on the part of the Indemnitor or any of its Representatives; *provided, however*, that the Indemnitor will not have any obligation to indemnify the Indemnified Parties from or against any Indemnity Claims to the extent caused by, resulting from, relating to or arising out of the gross negligence or intentional misconduct of the Indemnified Parties, or material breach of this PPA by the Indemnitor. In addition to the foregoing, to the fullest extent permitted by law, Buyer, as the Indemnitor, hereby indemnifies and agrees to defend, protect, and hold harmless Seller and its Representatives, as the Indemnified Parties, from and against any and all Indemnity Claims related to any and all Environmental Conditions, except to the extent that the same are caused by the negligence or willful misconduct of Seller and/or its Representatives or within an area of the Premises with respect to which Seller has restricted access by Buyer's personnel, where, as used in this PPA, the term (a) "**Environmental Conditions**" means (i) the violation or alleged violation of any Environmental Law at or on the 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; (b) "**Hazardous**

Material” means any substance or material regulated by or listed in any Environmental Law; and (c) “**Environmental Law**” means any federal, state or local law, regulation, ordinance or other requirement governing human health and/or the environment.

11.2 Limitation of Remedies, Liability and Damages. The Parties confirm that with respect to the matters specified herein and to the extent specified the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. Without prejudice to the calculation of the amount of any Termination Payment, payment for Imputed Energy, 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 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 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 this PPA.

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

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

ARTICLE 12. CONNECTICUT FREEDOM OF INFORMATION ACT & CONFIDENTIALITY

Seller is an Affiliate of Green Bank, Green Bank and Buyer are each a “public agency” for purposes of the Connecticut Freedom of Information Act (“FOIA”). Accordingly, this PPA and information received pursuant to this PPA will be considered public records and will be subject to disclosure under the FOIA, except for information falling within one of the exemptions in Conn. Gen. Stat. § 1-210(b) and § 16-245n(d).

Because only the particular information falling within one of these exemptions can be withheld by Seller or Buyer pursuant to an FOIA request, each Party should specifically and in writing identify to the other Party the information that the Party claims to be exempt. Seller or Buyer, as applicable, should further provide a statement stating the basis for each claim of exemption. It will not be sufficient to state generally that the information is proprietary or confidential in nature and not, therefore, subject to release to third parties. A convincing explanation and rationale sufficient to

justify each exemption consistent with General Statutes §1-210(b) and § 16-245n(d) must be provided.

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

ARTICLE 13. NOTICES

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

If to Buyer:

Easton Town Hall
225 Center Road
Easton, Connecticut 06612
Attention: First Selectman
Phone:

If to Seller:

CEFIA Holdings, LLC
845 Brook Street
Rocky Hill, CT 06067
Attention:
Phone:
Email:

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 PPA, whether voluntarily or by operation of law, and any such assignment or transfer without such consent will be null and void.

(b) Notwithstanding the foregoing, Seller may, without the prior written consent of Buyer, assign, mortgage, pledge or otherwise directly or indirectly transfer all or any part of, or any right or obligation under this PPA (i) to any party that acquires Seller or all or substantially all of Seller's assets; (ii) for security purposes in connection with any financing or other financial arrangements regarding 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 PPA 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 as soon as reasonably practicable. Buyer agrees to execute such reasonable consents to assignment and other documents, and to provide such information, as is requested by Seller in connection with any Permitted Transfer.

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

(d) If the Buyer ceases to use the Premises for municipal purposes during the Term and the Buyer elects to sell or lease the Premises to a third-party Person, the Seller agrees that this PPA shall not terminate, provided the Premises shall be sold or leased together with, and subject to, this PPA. Such Person acquiring or leasing the Premises shall (1) be qualified to purchase Energy under the applicable Connecticut statute, (2) have the same or substantially similar load requirement as Buyer, (3) assume, in writing, all of the rights and obligations of Buyer under this PPA and (4) shall have credit quality greater than or equivalent to Buyer, unless otherwise approved by Seller in its sole discretion. No such assignment of this PPA, whether directly or indirectly, by Buyer shall operate to release the Buyer from any of its obligations under this PPA unless Seller consents, in writing, to such assignment and expressly releases the Buyer from its obligations thereunder.

14.2 Cooperation with Financing. Buyer acknowledges that Seller will be financing the construction of the SEF and Buyer agrees that it shall reasonably cooperate with Seller and its Financing Parties in connection with such financing for the SEF, 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 PPA was duly authorized, executed and delivered by Buyer, (d)

the obtaining of any lien waivers, the execution of commercial law forms and such other documents, all as reasonably requested by Seller or any Financing Party to secure such Financing Party's collateral position in the SEF or in Seller's rights under this PPA; *provided, however*, that the foregoing undertaking shall not obligate Buyer to change any rights of benefits, or increase any burdens, liabilities or obligations of Buyer, under this PPA to the Financing Parties except as specifically provided herein.

ARTICLE 15.

FINANCING PARTY ACCOMMODATIONS

15.1 Buyer Acknowledgment. Buyer acknowledges that Seller shall have the right to finance the SEF with financing accommodations from a Financing Party and that Seller's obligations will be secured by, among other collateral, a pledge or collateral assignment of this PPA and a first security interest in the SEF. 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 PPA, Seller shall have the right to assign this PPA in connection with the financing or refinancing of the SEF, and Buyer consents to the assignment by Seller to the Financing Party of Seller's right, title and interest in and to this PPA. Notwithstanding any contrary term or provision contained in this PPA, any assignment of this PPA to a Financing Party for financing or refinancing of the SEF 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 PPA, provided that any such consent does not require Buyer to alter its rights and obligations pursuant to this PPA in any way.

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

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

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

(c) Upon the exercise of remedies under its security interest in the SEF, including any sale thereof by the Financing Party, whether by judicial proceeding or under any power of sale, or any conveyance from Seller to the Financing Party, Buyer's consent shall not be required, however, the Financing Party will give notice to Buyer of the transferee

or assignee of this PPA; *provided, further*, that any sale, transfer or other disposition of the SEF by the Financing Party, whether by judicial proceeding or otherwise, shall be made solely to a Qualified Assignee. Any such exercise of remedies shall not constitute an Event of Default.

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

(e) In the event that a Financing Party becomes the owner of the 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 PPA, pursuant to the terms and conditions hereof, and further agrees to sell its right in the SEF or the PPA to a Qualified Assignee purchaser only if such purchaser agrees to continue to provide Buyer with Energy under this PPA in accordance with the terms and conditions thereof.

15.4 Financing Party's Right to Cure.

(a) Upon receipt from Financing Party of its invocation of the rights provided for in this Section 15.4 and the name and address of the Financing Party entitled to notice, Buyer will not exercise any right to terminate this PPA unless Buyer has given the Financing Party prior written notice at the address provided to Buyer in writing of any event giving rise to Buyer's right to terminate this PPA. Buyer's notice of an intent to terminate this PPA must specify the condition giving rise to such right. Notwithstanding any contrary term or provision in this PPA, Financing Party shall have thirty (30) days beyond the cure period provided to Seller pursuant to this PPA to cure the condition. Buyer's and Seller's obligations under this PPA will otherwise remain in effect and required to be fully performed during any cure period.

(b) If the Financing Party or its Qualified Assignee (including any purchaser which meets the definition of a Qualified Assignee) has commenced and is diligently pursuing judicial proceedings to acquire title to or control of the 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 15.4(a) and assumes in writing the obligations of Seller hereunder, then this PPA will continue in full force and effect.

15.5 Notice of Defaults and Events of Default. Upon and at any relevant time after receipt of the notice provided for in Section 15.4(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 Governing Law. This PPA will be governed by the Laws of the State of Connecticut, without giving effect to principles of conflicts of laws.

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

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

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

16.5 No Third-Party Beneficiaries. Nothing in this PPA will provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind.

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

16.7 Relationship of Parties. The Parties are independent contractors, and will not be deemed to be partners, joint venturers or agents of each other for any purpose unless expressly stated otherwise herein.

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

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

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 PPA.

16.11 General Interpretation. The terms of this PPA have been negotiated by the Parties hereto and the language used in this PPA shall be deemed to be the language chosen by the Parties hereto to express their mutual intent. This PPA shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument of any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the PPA. No rule of strict construction will be applied against any person.

16.12 Removal of Liens. Buyer will ensure that no liens of whatever type will be filed, lodged or attached to the SEF (other than those created by Seller or its creditors). If any such liens are filed, lodged or attached to the SEF, Buyer shall immediately notify Seller in writing, will promptly do all acts and things at the Buyer's expense to remove such liens and agrees to fully indemnify Seller for any loss and damage (including reasonable attorneys' fees) that Seller incurs as a result of any lien on or over the SEF. 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 in order to protect its rights in the SEF.

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

16.14 Dispute Resolution.

(a) In the event that any question, dispute, difference or claim arises out or in connection with this PPA, including any question regarding its existence, validity, performance or

termination (a "**Dispute**"), then senior management personnel from both Seller and Buyer shall meet and diligently attempt in good faith to resolve the Dispute for a period of thirty (30) days following one Party's written request to the other Party for such a meeting. If, however, either Party refuses or fails to so meet, or the Dispute is not resolved by negotiation, the provisions of Sections 16.14(b) shall apply.

(b) In the event the Parties are unable to resolve a Dispute pursuant to the provisions of Sections 16.14(a), the Parties agree that any State or Federal court located in Fairfield County, Connecticut shall have exclusive jurisdiction and venue to hear all disputes arising out of or relating to this PPA. Further, notwithstanding anything in this PPA to the contrary, in the event a Party fails to perform as agreed upon hereunder, the non-breaching Party has the right to seek such injunctive relief and other equitable relief from that any State or Federal court located in Fairfield County, Connecticut.

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

ARTICLE 17.

OPTION TO PURCHASE SEF

17.1 Grant of Purchase Option. Seller hereby grants to Buyer the right and option to purchase all of the Seller's right, title, and interest in and to the SEF 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 PPA pursuant to Section 8.2 (collectively, the "**Purchase Option Dates**"), provided that no Buyer Event of Default, or any event which with the passage of time will become a Buyer Event of Default, has then occurred and is ongoing.

17.2 Determination of Purchase Price. Buyer may, at any time within thirty (30) days following each Purchase Option Date, request a determination of the purchase price under the Purchase Option (the "**Purchase Price**"). The Parties shall attempt to determine the Purchase Price by mutual agreement, which in no event shall be less than the fair market value of the SEF at the Purchase Option Date. If the Parties have not agreed on the Purchase Price within thirty (30) days after Buyer's request for a Purchase Price determination, then the Purchase Price shall be the fair market value of the SEF, as determined by an independent appraiser retained by the Parties (the "**Independent Appraiser**"), provided that the Purchase Price shall in no event be less than the Termination Payment that would be due from Buyer to Seller if the PPA was terminated due to Buyer Event of Default at the Purchase Option Date. The Independent Appraiser shall be an individual who is a member of a national accounting, engineering or energy consulting firm qualified by education, experience, and training to determine the value of solar generating facilities of the size and age and with the operational characteristics of the SEF, 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 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 ten (10) days of receipt of the price Determination (the "**Exercise Period**"). Any such exercise notice shall be irrevocable once delivered. If Buyer does not exercise the Purchase Option during the Exercise Period, then the Price Determination shall be null and void, and Buyer may not request a new determination of the Purchase Price until the next Purchase Option Date. Each Price Determination by an Independent Appraiser shall be at Buyer's expense, provided that in the event Buyer exercises the Purchase Option, the applicable Price Determination shall be at Seller's expense.

17.3 Terms and Date of SEF Purchase. The Parties shall consummate the sale of the SEF to Buyer no later than forty-five (45) days following Buyer's exercise of the Purchase Option. On the effective date of such sale (the "**Transfer Date**") (a) Seller shall surrender and transfer to Buyer all of Seller's right, title, and interest in and to the SEF and shall retain all liabilities arising from or relating to the SEF that arose prior to the Transfer Date; (b) Buyer shall pay the Purchase Price to Seller in readily available funds, and shall assume all liabilities arising from or relating to the SEF as of and after the Transfer Date; and (c) both the Seller and the Buyer 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 SEF in Buyer, 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 SEF to Buyer. The purchase and sale of the SEF 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 SEF, but Seller shall, to the extent reasonably possible, transfer or assign to Buyer all manufacturer and third-party warranties with respect to the SEF or any part thereof.

ARTICLE 18.

REMOVAL OF SYSTEM AT EXPIRATION OR TERMINATION, NEGOTIATION FOR EXTENSION OF PPA OR TRANSFER OF OWNERSHIP

18.1 Upon the expiration or earlier termination of this PPA according to its terms, Seller shall remove all of its tangible property comprising the SEF from the Premises, on a mutually convenient date as soon as possible for Seller, using commercially reasonable efforts, but in no case later than one hundred twenty (120) days after the expiration or earlier termination of this PPA. Any such removal shall be done in a way that does not materially disrupt or interfere with Buyer's use of the Premises. The Premises shall be returned by Seller to its original condition, except for ordinary wear and tear. Seller shall pay all costs for the removal of the SEF pursuant to this Article 18. 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, and upon prior written notice to

Seller, to remove the SEF to a public warehouse and restore the Premises to its original condition (other than ordinary wear and tear) all at Seller's cost. The Seller shall be responsible for all damages to the Premises caused by or relating to the removal of the SEF (other than ordinary wear and tear). If, within one hundred eighty (180) days prior to the expiration of the Term, Buyer requests in writing that Seller not remove the SEF from the Premises, then the Parties shall negotiate in good faith to either: (a) extend this PPA pursuant to Section 2.1 or (b) agree to a sale of the SEF from Seller to Buyer at its then current fair market value, and if agreement is reached under clause (b) herein, then ownership, title and possession of the SEF shall transfer to Buyer.

ARTICLE 19.

NON-APPROPRIATION; NON-SUBSTITUTION


19.1 Non-Appropriation. Buyer's funding is provided annually by the appropriation of funds through the Buyer's Board of Finance. Buyer shall use best efforts to obtain sufficient funding for each fiscal year during the Term to meet its payment obligations to Seller pursuant to this PPA, including, without limitation, to request funding in each of its annual budget requests. If, however, despite those efforts, sufficient funds are not appropriated, Buyer may elect to terminate this PPA and shall promptly deliver notice to Seller as soon as practicable that sufficient funds were not appropriated. Buyer's notice shall state that the decision to terminate this PPA is due to non-appropriation of funds and shall specify an effective date of termination. To the extent permitted by law, and not to exceed the limitations of C.G.S. § 7-348 (as applicable), upon Buyer's decision to terminate this PPA, Buyer shall make a Termination Payment to Seller prior to the effective date of such termination. Following the effective date of termination, Seller shall remove the SEF from the Premises and restore the Premises to its original condition (other than ordinary wear and tear).

19.2 Non-substitution. In the event of a termination of this PPA due to non-appropriation of funds through the Buyer's Board of Finance, the Buyer agrees, to the extent permitted by state law, not to purchase, lease, rent, borrow, seek appropriations for, acquire or otherwise receive the benefits of any of the same and unique services performed by Seller under the terms of this PPA for a period of time equal to the remainder of the Term of this PPA, to be calculated as if this PPA had not been terminated.

[SIGNATURE PAGE FOLLOWS]

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

Town of Easton

By: 
Name: ADAM DUNSBY
Title: FIRST SELECTMAN

CEFIA Holdings LLC

By: _____
Name:
Title:

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

Town of Easton

By: _____
Name: ADAM DUNSBY
Title: FIRST SELECTMAN

CEFIA Holdings LLC

By: _____
Name: BRYAN T. GARCIA
Title: PRESIDENT AND CEO

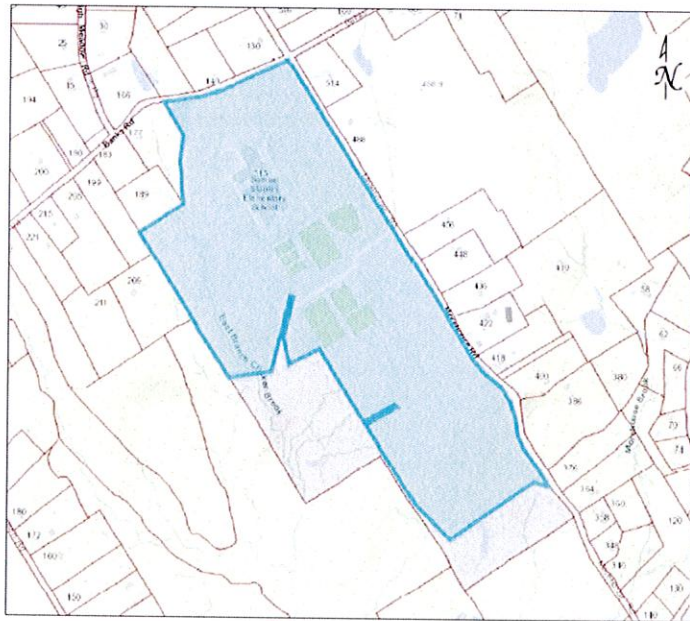
Aerial map:



AERIAL MAP

2

Parcel map:



PARCEL MAP

1

EXHIBIT B

PREMISES

The Premises shall consist of all that certain real property together with all improvements, buildings, and other structures thereon known as Samuel Staples Elementary School at 515 Morehouse Road, Easton, CT 06612, which area includes any Interconnection Equipment and the Delivery Point, being more particularly described as:

ALL THOSE CERTAIN pieces or parcels of land located in the Town of Easton, County of Fairfield and State of Connecticut, being designated as Lots 1 through 28 inclusive, and shown on that certain map entitled: Subdivision Map, "Fairhaven Estates" for Property on Banks Road & Morehouse Road, Easton, Connecticut Prepared for Fairfield Investors dated April 7, 2000 revised to January 15, 2001; Scale 1" = 100', Sheet 1 of 2 and Sheet 2 of 2, prepared by Spath-Bjorklund Associates, Inc., Consulting Engineers & Surveyors, Monroe, Connecticut and filed with the Easton Town Clerk's Office as Map Nos. 1499 and 1500.

TOGETHER WITH AND INCLUDING all right, title and interest in and to the roadways as shown on said Map and designated as Buckingham Drive and Windsor Court, both as shown on said Map.

EXHIBIT C

SCHEDULE OF DEFINITIONS AND RULES OF INTERPRETATION

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

- (a) “**Act**” shall have the meaning ascribed to it in the Recitals.
- (b) “**Affiliate**” means with respect to any entity, such entity’s general partner or manager, employee, or any other entity that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such entity. For purposes of this definition, “control” (including, with its correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any such person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities or by contract or otherwise.
- (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) “**Business Day**” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.
- (e) “**Buyer**” shall have the meaning ascribed to it in the Preamble.
- (f) “**Buyer Event of Default**” has the meaning ascribed thereto in Section 8.2.
- (g) “**Buyer Misconduct**” shall have the meaning ascribed to it in Section 7.1.
- (h) “**Buyer’s Serving Utility**” means The United Illuminating Company.

- (i) “**Buyer Termination Default**” has the meaning ascribed thereto in Section 8.3(b).
- (j) “**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.
- (k) “**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 Buyer’s Serving Utility, Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity.
- (l) “**Claiming Party**” shall have the meaning ascribed to it in Section 7.3.
- (m) “**Commercial Operation**” will begin on the day in which the entire SEF is operating on a sustained basis and producing not less than the Expected System Output and Seller is in receipt of all required approvals, signoffs and permits from any and all Governmental Entities and the Buyer’s Serving Utility for the production and sale of Energy (including the resale of Energy to Buyer’s Serving Utility).
- (n) “**Commercial Operation Date**” means the date upon which the SEF begins Commercial Operation, as set forth in the Notice of Commercial Operation.
- (o) “**Defaulting Party**” shall have the meaning ascribed to it in Section 8.1.
- (p) “**Delivery Point**” means the interconnection points on the Premises behind the meters installed by Buyer’s Serving Utility and before the electrical systems serving the Premises. No other delivery points are permitted under this PPA without the permission of the Buyer.
- (q) “**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 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 during the previous three (3) years.
- (r) “**Effective Date**” shall have the meaning ascribed to it in the Preamble to this PPA.
- (s) “**Energy**” means electric energy (alternating current, expressed in kilowatt-hours) generated by the SEF. Energy does not include any attendant Environmental Attributes.
- (t) “**Energy Payment Rate**” shall have the meaning ascribed to it in Section 3.3.
- (u) “**Environmental Attributes**” means each of the following that is in effect as of the Effective Date: (i) credits, benefits, reductions, offsets and other beneficial allowances, including, to the extent applicable and without limitation, performance based incentives or renewable portfolio standard in the state in which the Premises are located 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 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 Tax Benefits.

(v) "**Environmental Conditions**" shall have the meaning ascribed to it in Section 11.1.

(w) "**Environmental Law**" shall have the meaning ascribed to it in Section 11.1.

(x) "**Event of Default**" shall have the meaning ascribed to it in Section 8.1.

(y) "**Exercise Period**" shall have the meaning ascribed to it in Section 17.2.

(z) "**Expected System Output**" shall have the meaning ascribed to it in Exhibit A.

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

(bb) "**FOIA**" shall have the meaning ascribed to it in Article 12.

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

(dd) ***“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 SEF, the production and delivery of Energy, and Environmental Attributes, or any other transactions or matter contemplated by this PPA (including those pertaining to electrical, Premises, zoning, environmental and occupational safety and health requirements).

(ee) ***“Governmental Charges”*** means all applicable federal, state and local taxes (other than taxes based on income or net worth but including, without limitation, sales, use, gross receipts or similar taxes), governmental charges, emission allowance costs, duties, tariffs, levies, license fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Entity, independent system operator, utility, transmission and distribution provider or other similar entity, on or with respect to the Energy or this PPA.

(ff) ***“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.

(gg) ***“Green Bank”*** shall have the meaning ascribed to it in the Recitals.

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

(ii) ***“Imputed Energy”*** means Energy that the SEF is prevented from generating or delivering to, or that is not accepted at, the Delivery Point to the extent not caused by Seller or Force Majeure. In determining Imputed Energy for which Buyer is obligated to pay Seller, the Parties shall consider insulation, historical performance, projected output degradation or such other factors as Seller and Buyer shall in good faith agree.

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

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

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

(mm) ***“Insulation”*** shall have the meaning ascribed to it in Section 3.6.

(nn) ***“Interconnection Agreement”*** means the agreement for interconnection of the SEF with the distribution system of Buyer’s Serving Utility.

(oo) ***“Interconnection Equipment”*** means that portion of the 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 SEF to the Premises or to Buyer’s Serving Utility.

(pp) “**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.

(qq) “**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%, and (ii) the maximum rate permitted by applicable Law.

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

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

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

(uu) “**Meter**” shall have the meaning ascribed to it in Section 6.4.

(vv) “**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.

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

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

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

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

(aaa) “**Permitted Encumbrances**” means those encumbrances against the Premises listed in Exhibit D.

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

(ccc) “**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.

(ddd) “**Premises**” shall have the meaning ascribed to it in the Recitals.

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

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

(ggg) “**Prior Agreements**” shall have the meaning ascribed to it in Section 16.2.

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

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

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

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

(lll) “**Rescission Period**” shall have the meaning ascribed to it in Section 16.2.

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

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

(ooo) “**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.

(ppp) “**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).

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

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

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

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

(uuu) “***Solar Renewable Energy Certificates***” or “***SRECs***” means the certificate representing the environmental attributes associated with Energy, as developed under the oversight and regulations of Connecticut’s Public Utilities Regulatory Authority, including any modifications or revisions thereof or any successor agency.

(vvv) “***SUT***” shall have the meaning ascribed to it in Section 3.5(b).

(www) “***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.

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

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

(zzz) “***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.

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

(bbbb) “***Transfer Date***” shall have the meaning ascribed to it in Section 17.3.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT D
PERMITTED ENCUMBRANCES

1. The Effect, If Any, A special permit issued by the Town of Easton Planning and Zoning Commission dated January 10, 2007 and recorded in volume 597 at page 292 of the Easton Land Records.

2. The Effect If Any, Permit issued by the Town of Easton Conservation Commission dated October 22, 2008 and recorded in volume 628 at page 496 of the Easton Land Records.

3. A Special Permit granted by Conservation Commission of the Town of Easton dated October 11, 2017 and recorded October 11, 2017 in volume 674 at page 761 of the Easton Land Records.