

RESOLUTION NO. 2025- 57

RESOLUTION AUTHORIZING THE EXECUTION OF A SOLAR GROUND LEASE AGREEMENT BY AND BETWEEN VINELAND SOLAR LLC, HAMILTON, NEW JERSEY, A DELAWARE LIMITED LIABILITY COMPANY AND THE CITY OF VINELAND FOR A PORTION OF PROPERTY KNOWN AS 1271 SOUTH MILL ROAD, VINELAND FOR THE CONSTRUCTION AND OPERATION OF A SOLAR FIELD IN ACCORDANCE WITH A REDEVELOPMENT AGREEMENT.

WHEREAS, pursuant to the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. the City Council of the City of Vineland adopted Resolution 2022-154 requesting the Planning Board to undertake a preliminary investigation as to whether Block 5501 Lot 1, 11271 South Mill Road (Property) meets the criteria as an area in need of redevelopment, said Property being a properly closed and capped municipal landfill with small portions used for composting; and

WHEREAS, the Planning Board adopted Resolution 6508 recommending City Council favorably consider the Property as an area in need of redevelopment and City Council adopted Resolution 2022-236 adopting the findings of the Planning Board and declared the Property a Non-Condemnation Redevelopment Area further known as the Municipal Landfill Non-Condemnation Redevelopment Area (Redevelopment Area); and

WHEREAS, on June 13, 2023, City Council passed a motion to request the Planning Board prepare a redevelopment plan for the Redevelopment Area in accordance with N.J.S.A. 40A:12A-7 and after taking the testimony and reviewing the redevelopment plan prepared by Kathleen Hicks, P.P., AICP, the Planning Board endorsed the Redevelopment Plan to utilize the Property as a solar array which would advance the City Master Plan, support preservation of farmland and open space by supporting the utilization of compromised land for the development of solar fields which in turn would advance federal, State and local initiatives to address the negative impacts of climate change and provide clean energy to the area; and

WHEREAS, City Council adopted Ordinance 2023-47 adopting the Redevelopment Plan consistent with Planning Board Resolution 6581; and

WHEREAS, on August 26, 2021 Infiniti Energy LLC, Hamilton, New Jersey submitted an application to the Board of Public Utilities for certification for eligibility to generate Transition Renewable Energy Certificates (TRECS) and proposed a 14.9962 MWdc grid supply solar farm on the Property and has submitted a proposal to the City to be named Redeveloper for the Property; and

CITY OF VINELAND

WHEREAS, Infiniti proposes to lease the Property at a rate of \$20,000.00 per MWdc monthly with an additional PILOT payment in the amount of \$5,000.00 monthly per MWdc, a PPA for a period of twenty (20) years with an energy purchase rate to the City in the amount of \$0.02 per KWH, zero percent escalation of KWH rate for the full 20 year period, a \$4,000,000.00 utility upgrade allowance payable upon request for progress payments for infrastructure upgrades required for the project and the City shall have full capacity and transmission savings over the full term of the lease period of 20 years; and

WHEREAS, upon the recommendations and information provided by the Director of the Municipal Utilities, City Council found that Infiniti had the financial ability, experience and expertise to redevelop the Property within a reasonable period of time and further found the financial benefits are in the best interest of the City; and

WHEREAS, on October 10, 2023, City Council adopted Resolution 2023-464 appointing Infiniti as the Redeveloper for the Municipal Landfill Redevelopment Area and authorized the execution of a Redevelopment Agreement; and

WHEREAS, on July 8, 2024, Aggreko Energy Transition Solutions (AETS) a division of Aggreko, a global leader in energy solutions, announced the acquisition of Infiniti Energy LLC; and

WHEREAS, Aggreko was founded in 1962 in the United Kingdom and has over 60 years' experience in the global energy market and is found to be highly qualified and with the additional experience of Infiniti, the Director of the Municipal Utility and staff find the acquisition of Infiniti by AETS provides a stronger company to perform all of the proposals submitted by Infiniti; and

WHEREAS, AETS has created a wholly owned subsidiary to operate the Redevelopment Project as proposed by Infiniti and the Director and staff recommends City Council, as the Redevelopment Entity, authorize the appointment of Vineland Solar LLC, Hamilton, New Jersey as the Redeveloper for the Municipal Landfill Redevelopment Area under the same proposal provided to the City as set forth herein; and

WHEREAS, Vineland Solar LLC has proposed the execution of a separate Solar Ground Lease Agreement to be executed in conjunction with a Redevelopment Agreement and Power Purchase Agreement, which contains all of the proposals regarding the payment of Basic Rent and a PILOT payment as more fully set forth in the Solar Ground Lease Agreement attached hereto and made a part hereof; and

WHEREAS, the Director and staff recommends the execution of the Solar Ground Lease Agreement and City Council as the Redevelopment Entity finds it to be in the best interest of the City to execute the Ground Lease Agreement in the form and substance as attached hereto subject to non-material changes as recommended by the Solicitor.

CITY OF VINELAND

NOW THEREFORE BE IT RESOLVED by the Council of the City of Vineland that City Council President of the City of Vineland as the Redevelopment Entity shall execute the Solar Ground Lease Agreement by and between Vineland Solar LLC, Hamilton, New Jersey, a wholly owned subsidiary of Aggreko Energy Transition Solutions, a division of Aggreko as the Redeveloper for a portion of the Municipal Landfill Non-Condensation Redevelopment Area in the form attached hereto subject to such changes as recommended by the City Solicitor.

Adopted: January 28, 2025

President of Council pfs

ATTEST:

City Clerk kp

SOLAR GROUND LEASE

This SOLAR GROUND LEASE (this “**Lease**”) is entered into by and between Landlord and Tenant (defined below), as of [January [___], 2025] (the “**Effective Date**”).

In consideration of the foregoing mutual promises of the parties herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Tenant and Landlord hereby agree as follows:

BASIC LEASE PROVISIONS

LANDLORD

THE CITY OF VINELAND, NEW JERSEY.

TENANT

VINELAND SOLAR LLC, a Delaware limited liability company.

PROPERTY

Those certain parcels of real property, any improvements located thereon and rights, benefits and easements appurtenant to the parcels located at 1271 South Mill Road, County of Cumberland, City of Vineland, State of New Jersey, as more particularly described on **Exhibit A**.

LAND

Approximately thirty-seven (37) acres of Property, together with all appurtenant rights and easements as more particularly described on **Exhibit B**.

ACCESS EASEMENT

A non-exclusive, appurtenant easement to access the Land and to construct, maintain, reconstruct, and/or repair a road and/or pedestrian access on, over, across and through the Property in the locations more particularly described on **Exhibit C** (the “**Access Easement Area**”).

TRANSMISSION EASEMENT

A non-exclusive, appurtenant easement for constructing, placing, operating, maintaining, reconstructing, replacing, rebuilding, upgrading, removing, inspecting, modifying and/or repairing aboveground electrical transmission lines and a line or lines of poles or towers, together with such wires and cables and communications lines as from time to time are suspended therefrom, and/or underground wires and cables, for the transmission of electrical energy and/or for communication purposes, and all necessary and proper anchors, support structures, foundations, footings, cross arms and other appliances and fixtures for use in connection with said towers, wires and cables, in each case upon, through, over, across and/or under, as applicable, the Property in the location more particularly described on **Exhibit D** the “**Transmission Easement Area**” and together with the Access Easement Area, collectively, the

“Easement Areas” and collectively known as the “Easements”).

The parties understand that the initial legal descriptions of the Land, Access Easement Area and Transmission Easement Area are based on preliminary investigations of the Property. Landlord hereby agrees to execute one or more amendments to **Exhibit E** of this Lease proposed by Tenant which modifies the legal description of the Land, Access Easement Area and/or Transmission Easement Area or requests a subdivision of the Property; provided that such amendment is reasonably necessary to accommodate (i) the Solar Facility as designed, or (ii) the Solar Facility as modified by Tenant to comply with the requirements of any Governmental Authority or the electric utility. For the avoidance of doubt, under no circumstances shall Landlord be entitled to any increase in Basic Rent or other additional compensation under this Lease as a result of an amendment to the legal description of the Land, Access Easement Area and Transmission Easement Area or the subdivision of the Property.

PREMISES

The Land together with easements appurtenant to the Land and the Easement Areas, if any.

TERM

Development and Construction Period

The period commencing on the Effective Date and expiring on the date that is the earlier of (i) the delivery of the COD Notice in accordance with the PPA and (ii) twenty-four (24) months after the Effective Date (the “**Development and Construction Period**”).

The Initial Operational Period

From the expiration of the Development and Construction Period until the date that is twenty (20) years thereafter (the “**Initial Operational Period**”).

The Operational Period

The Initial Operational Period together with each Additional Term pursuant to Tenant’s right to extend as set forth in Section 3(d) (collectively, the “**Operational Period**”).

The Decommissioning Period

From the expiration of the Operational Period until the date that is six (6) months thereafter (the “**Decommissioning Period**”).

BASIC RENT

From the Effective Date until the expiration of the

\$1.00 (the “**Development and Construction Period Rent**”).

Development and
Construction Period

From the expiration of the
Development and
Construction Period until
the expiration of the
Operational Period

\$25,000.00 per Megawatt generated per annum but in no event shall payments be less than \$375,000.00 per annum (The applicable amount being the “**Operational Period Rent**”).

From the expiration of the
Operational Period until
decommissioning is
completed and all
equipment and materials
have been removed from the
Property

\$1.00, provided no generation is occurring, and if generation is occurring, then the rent shall be \$12,500.00 per Megawatt generated per annum.

**LANDLORD’S ADDRESS
FOR NOTICES**

City of Vineland
640 East Wood Street
Vineland, New Jersey 08360
Attn: City Clerk and City Attorney
Phone: [_____]
Email: [_____]

**TENANT’S ADDRESS
FOR NOTICES**

Vineland Solar LLC
300 American Metro Blvd. East, Suite 133
Hamilton, New Jersey 08619
Attn: Prashanth Prakash
Email: prashanth.prakash@aggreko.com

With a copy to:

Clifford Chance US LLP
Two Manhattan West
375 9th Avenue
New York, NY 10001-1696
Attn: Alexander Leff, Esq. and Eddie Frastai, Esq.
Phone: +1 713-821-2804; +1 212-878-4931
Email: alexander.leff@cliffordchance.com;
eddie.frastai@cliffordchance.com

**REDEVELOPMENT
AGREEMENT**

That certain Redevelopment Agreement between Landlord and Tenant dated as of the date hereof

PPA

That certain Power Purchase Agreement between [_____] and Tenant dated as of the date hereof

LIST OF EXHIBITS

- EXHIBIT A – Legal Description of the Property
- EXHIBIT B – Legal Description of the Land
- EXHIBIT C – Description of the Access Easement Area
- EXHIBIT D – Description of the Transmission Easement Area
- EXHIBIT E – Form of Memorandum of Lease

1. **Basic Lease Provisions.** The Basic Lease Provisions set forth above and the Exhibits attached to this Lease are each incorporated into the body of this Lease as if set forth herein.

2. **Premises.** Landlord hereby leases and grants to Tenant and Tenant agrees to and does hereby lease from Landlord, subject to the terms and conditions of this Lease, the Premises, together with all right, title and interest of Landlord in and to all easements, rights, privileges and appurtenances to the same belonging or in any way appertaining thereto, to have and to hold the aforesaid Land and appurtenant interests unto Tenant for the Term (defined below) for the purposes of constructing, placing, operating, maintaining, reconstructing, replacing, rebuilding, upgrading, removing, testing, surveying, inspecting, modifying and/or repairing a solar electric generating facility and/or energy storage facility, which includes all photovoltaic solar panels, energy storage devices and systems, battery storage devices and systems foundations, poles, towers, mounting systems, inverters, transformers, integrators, all electrical lines and conduits required to collect and transmit electrical energy and such additional utility lines, cables, conduits, transformers, wires, meters, monitoring equipment, and other necessary and convenient equipment and appurtenances common to such a facility (collectively, the “**Solar Facility**”). The precise location of the Solar Facility and any improvements related thereto shall be subject to a site plan which shall be reviewed and approved by the Landlord, such approval shall not be unreasonably withheld, conditioned or delayed.

3. **Term of Lease.**

(a) The term of this Lease shall be the Development and Construction Period, the Operational Period and the

Decommissioning Period, each as described in the Basic Lease Provisions above.

(b) The Development and Construction Period shall commence on the Effective Date and expire on the earlier of (i) the delivery of the COD Notice in accordance with the PPA or (ii) twenty-four (24) months after the Effective Date. This Lease will terminate upon expiration of the Development and Construction Period unless either: (i) Tenant delivers the COD Notice in accordance with the PPA or (ii) Tenant has first provided written notice to Landlord of its intent to commence the Operational Period, in which case this Lease will automatically proceed to the Operational Period.

(c) Following the start of the Development and Construction Period, this Lease will continue in effect until terminated.

(d) Tenant shall have the right to extend the Operational Period for four (4) additional terms of five (5) years each (each, an “**Additional Term**”) by delivering written notice to Landlord. Such notice shall be given, if at all, not more than three hundred and sixty (360) and not less than one hundred and eighty (180) days before the last day of the Initial Term or the then current Additional Term, as applicable. The Additional Term shall begin immediately upon the conclusion of the Initial Term or the then current Additional Term on the same terms and conditions as set forth in this Agreement excepting the Lease Payment amount which shall be negotiated between the parties.

(e) The Decommissioning Period shall commence on the expiration of the Operational Period and shall expire six (6) months thereafter.

(f) Notwithstanding the foregoing, Tenant may terminate this Lease at any time prior to the Commercial

Operation Date for any reason or no reason whatsoever, without penalty, by providing written notice to Landlord prior to the Commercial Operation Date. The “**Commercial Operation Date**” is the date on which the Tenant provides the Landlord with written notice that the Solar Facility has achieved commercial operation.

4. **Rent.**

(a) Tenant covenants and agrees to pay Landlord during the Term the amount of the Basic Rent described in the Basic Lease Provisions above. The “**Basic Rent**” means, collectively, the Development and Construction Period Rent and the Operational Period Rent, as applicable. Basic Rent shall be paid to Landlord without notice or demand and without deduction, abatement or set-off of any kind, except as expressly provided in this Lease.

(b) The first month’s Operational Period Rent shall be due thirty (30) calendar days after the commencement of the Operational Period, and on the first of each month thereafter until the expiration of the Operational Period.

(c) Costs incurred by Tenant to complete the Site Preparation Scope (as defined in the Redevelopment Agreement) in excess of the Cap on Costs (as defined in the Redevelopment Agreement) shall be applied as an offset against the Basic Rent dollar for dollar beginning on the commencement of the Operational Period.

(d) Tenant shall be entitled to offset from Basic Rent payments for Taxes and Assessments as provided in Section 9 hereof.

5. **Easements and Encumbrances.**

(a) **Easement Areas.** If identified in the Basic Lease Provisions above, Landlord hereby grants to Tenant the Easements described in the Basic Lease Provisions, if any, for a period coterminous with this Lease subject to Section 17(c). The Easements, if any, shall run with the Property. Notwithstanding the fact that the Easements, if any, are non-exclusive, any concurrent uses of the Easement Areas by Landlord or any third parties shall not interfere with Tenant’s rights granted herein. If Tenant determines in its reasonable discretion that any additional easements across the Property or for the benefit of the Solar Facility are necessary to effectuate the purposes and intent of this Lease, Landlord shall cooperate in granting or agreeing to such easements within thirty (30) days of Tenant’s written request, including, but not limited to, by amendment to this Lease or by separate agreement.

(b) **No Interference.** Landlord grants to Tenant the right and privilege to the free and unobstructed insolation of solar energy over (i) the Land; (ii) contiguous land owned or controlled by Landlord, or any Landlord affiliate; or (iii) adjacent land that Landlord or Landlord’s affiliate may acquire (collectively, the “**Servient Land**”); provided Landlord shall have the continued right to use the Servient Land for any uses existing as of the Effective Date and any new uses which do not interfere with Tenant’s use of the Land (collectively, “**Insolation**”). Landlord shall not permit any interference with Insolation on the Land and Landlord shall not (A) construct, or permit to be constructed, any structure that could obstruct the Solar Facilities on the Servient Land; (B) permit the obstructive growth of foliage on the Servient Land; (C) emit or permit the emission of suspended particulate matter, smoke, fog or steam or

other air-borne impediments on the Servient Land; or (D) burn or permit the burning of garbage, plant, shrub, and yard trimmings or other vegetation on the Servient Land above minimal levels, that, in each case described in (A) through (D) hereof, could adversely affect Insolation levels on the Land. Landlord and Tenant hereby acknowledge that Tenant shall have the right (but shall not be obligated) upon five (5) business days notice to Landlord to trim, cut down or remove, at Landlord's cost, any such buildings, structures, trees or vegetation in violation of the preceding sentence and Landlord shall provide reasonable temporary legal access to these areas. Tenant shall be permitted to a reimbursement of such costs as an abatement of Basic Rent. In the event Landlord (or its affiliate, as applicable) shall sell, convey or otherwise transfer ownership of any of the Servient Land, Landlord (or its affiliate, as applicable) shall include in any instrument evidencing such transfer, such prohibition.

(c) **Temporary Easement.**

Landlord grants to Tenant the right, privilege, and non-exclusive easement to be located at a mutually acceptable location on a portion of the Servient Land to be used for temporary (i) storage and staging of tools, materials and equipment; (ii) construction laydown; (iii) parking of construction crew vehicles and temporary construction trailers; (iv) vehicular and pedestrian access and access for rigging and material handling; and (v) construction or installation of other facilities reasonably necessary to construct, erect, install, expand, modify or remove the Solar Facility.

6. **Solar Facility.**

(a) The parties agree that any improvements, equipment, buildings, foundations, poles, towers or transmission lines at any time constructed by or for Tenant on the Premises, or at any time acquired by or

for Tenant and located on the Premises, including, without limitation, the Solar Facility (the "**Improvements**") are hereby severed by agreement and intention of the parties and shall remain severed from the Property, and shall be considered with respect to the interests of the parties hereto as the property of Tenant or a Financing Party (defined below) designated by Tenant, and, even though attached or affixed to or installed upon the Premises, shall not be considered to be fixtures or a part of the Property and shall not be or become subject to the lien of any mortgage or deed of trust heretofore or hereafter placed on the Property by Landlord. Landlord waives any rights it may have under the laws of the state wherein the Premises are located arising under this Lease or otherwise to any lien upon, or any right to distress or attachment upon, or any other interest in, any item constituting part of the Solar Facility or any other equipment or other Improvements. The parties further agree that all Environmental Attributes (defined below) and Solar Incentives (defined below) belong solely to Tenant and shall remain the personal property of Tenant and shall not attach to or be deemed a part of, or fixture to, the Premises. The Solar Facility and other Improvements shall at all times retain the legal status of personal property as defined under Article 9 of the New Jersey Uniform Commercial Code. "**Environmental Attributes**" shall mean, without limitation, carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags, tradable renewable credits, or Green-e® products. "**Solar Incentives**" include, without limitation, any accelerated depreciation, installation or production-based incentives, investment tax credits and subsidies.

(b) Tenant, at its sole cost and expense, shall operate and maintain the Solar Facility throughout the Term, including,

without limitation, making all necessary repairs and replacements to the Solar Facility, as determined by Tenant in its reasonable discretion.

(c) Tenant shall have the right, but not the obligation, at any time and from time to time during the Term, at its expense and pursuant to Section 10 hereof, to (i) make additions, changes, alterations, or improvements, structural or otherwise, to the Solar Facility; and (ii) demolish and remove the Solar Facility or any other Improvements hereafter located on the Premises.

7. **Mineral Rights/Surface Use.** This Lease does not demise or lease to Tenant any oil, gas or minerals in place underneath the surface of the Premises or the right to extract and remove the same, and Landlord's rights, if any, in such oil, gas, and minerals are reserved to, and retained by, Landlord. Landlord may only engage in or permit the exploration for, extraction or production of oil, gas and minerals from the Property to the extent that such activities will not interfere with Tenant's use of the Premises or affect the Solar Facility. Nothing herein shall prevent the Landlord from full compliance with any New Jersey Department of Environmental Protection requirements for the maintenance of the Property or the landfill cap installed at the Property (the "Landfill Cap").

8. **Insurance and Waiver of Subrogation.**

(a) During the Term, Tenant shall be responsible for obtaining insurance on the Improvements against loss or damage by a casualty and against loss or damage by other risks as determined by Tenant in such amounts as determined in Tenant's reasonable discretion.

(b) Tenant shall keep and maintain, or cause to be kept and maintained, a policy or policies of commercial general liability insurance in amounts of not less than \$1,000,000 per occurrence covering any damage to the Premises insuring Tenant and Landlord as an additional insured, against liability for bodily injury, death and property damage occurring upon the Premises or as a result of the presence or operation of the Improvements.

(c) Landlord and Tenant each hereby waives any right of recovery against the other and the authorized representatives of the other for any loss or damage that is covered or required by this Lease to be covered by any policy of insurance maintained with respect to the Premises, the Improvements or any operations therein, even though such loss or damage might have been occasioned by the negligence of such party. Each party shall cause insurance policies relating to this Lease, the Property, the Premises and the Improvements to provide that such insurers waive all right of recovery by way of subrogation against either party in connection with any claim, loss or damage covered by such policies.

9. **Taxes and Assessments.**

(a) "**Taxes and Assessments**" shall mean all taxes, assessments or other impositions, general or special, ordinary or extraordinary, of every kind or nature, which may be levied, assessed or imposed upon or with respect to the Property or any part thereof, including the Premises, or upon any buildings, improvements, fixtures, equipment or personal property at any time situated thereon. Landlord shall pay before the same becomes delinquent (i) any transfer or conveyance tax arising out of this Lease, and (ii) any Taxes and Assessments which accrue during the Term and are imposed on, or arise in connection with, the Property

(except those that are the responsibility of Tenant pursuant to clause (b) below), including any annual increases thereon. Tenant shall not be responsible for payment of any municipal, state or federal income, income profits or revenue tax imposed on rent, inheritance, estate, succession, transfer, gift, franchise, corporation, income or profit tax or capital levy or any tax related to a change of ownership of the Property.

(b) **Tenant's Taxes.** Throughout the Term, Tenant shall pay, or cause to be paid, all Taxes and Assessments that may be imposed on the Improvements, and Tenant shall pay, or cause to be paid, any increase in Taxes and Assessments accruing during the Term against the Premises to the extent resulting directly from the presence of Tenant's Improvements on the Premises; provided that in each case any amount expended by Tenant in connection with the foregoing shall be offset against the Basic Rent (as hereinafter defined) dollar for dollar. Landlord shall promptly forward to Tenant all notices, bills or other statements received by Landlord concerning any Taxes and Assessments. To the extent that any of the Taxes and Assessments payable by Tenant are jointly assessed with Landlord's real estate taxes, assessments and other impositions, the parties shall cooperate in a good faith effort to cause such Taxes and Assessments to be separately assessed. Tenant shall pay all such Taxes and Assessments directly to the taxing authority as the same become due and payable, subject to Basic Rent offset as provided in this subsection.

(c) Tenant shall have the right in its own name to contest the validity or amount, in whole or in part, of any imposition associated with the Solar Facility (including a reduction in the assessed valuation of the Premises) by appropriate proceedings timely instituted, provided that any such contest by

Tenant shall effectively stay or prevent any official or judicial sale of the Premises or any part thereof by reason of nonpayment of any imposition. Landlord shall, at Tenant's request, and expense, fully cooperate with Tenant in all reasonable ways to contest any imposition associated with the Solar Facility. Tenant shall hold Landlord harmless from any costs and expenses related to any such contest. Any refund of real estate taxes or other impositions payable or paid by Tenant as a result of any such proceedings attributable to a period of time during the Term shall be the property of Tenant, provided that Landlord shall be reimbursed for any Basic Rent offset attributable to such refunded taxes or impositions.

(d) The provisions of this Section 9 shall survive the expiration or earlier termination of this Lease.

10. **Alterations.**

(a) Tenant may, at any time, or from time to time, at its sole cost and expense and without obtaining the consent or approval of Landlord, construct Improvements, make changes, alterations, or modifications to the Improvements (collectively, the "**Alterations**") including, but not limited to demolition, removal and/or reconstruction of the Improvements, or any part thereof; provided, however, that such Alterations shall comply with all Legal Requirements. "**Legal Requirements**" shall mean all laws, statutes, ordinances, orders, rules, regulations and requirements of all Governmental Authorities (defined below), and the appropriate agencies, offices, departments, boards and commissions thereof, whether now or hereafter in force, applicable to the Premises, or any part thereof, as to the manner of use or occupancy or the maintenance, repair or condition of the Premises, or any part thereof, including without limitation Environmental Laws

(defined below). “**Governmental Authorities**” shall mean any board, bureau, commission, department or body of any municipal, county, state or federal governmental unit or subdivision thereof, having or acquiring jurisdiction over the Premises or the use and improvement thereof.

(b) Tenant shall, within sixty (60) days after demand by Landlord, discharge, by the filing of a bond or otherwise, any mechanic’s, materialman’s or other lien asserted against the Premises by reason of the making of any Alterations.

11. Use of Premises; Compliance with Legal Requirements.

(a) Tenant shall have exclusive use of the Land during the Term. Tenant shall solely use the Premises for purposes related to the construction, placement, operation, maintenance, reconstruction, replacement, rebuilding, upgrading, removal, testing, surveying, inspection, modification and/or repair of the Solar Facility and the other Improvements and for any other lawful purpose incidental thereto. Tenant and its designees (including Financing Parties) shall have the right during the Term to use and occupy the Premises for the foregoing purpose without the necessity of securing Landlord’s prior consent or permission.

(b) Tenant shall, throughout the Term, promptly comply with all Legal Requirements now or hereafter applicable to its occupation and use of the Premises. Tenant shall, however, have the right to contest any such Legal Requirements, and if compliance therewith may legally be held in abeyance during such contest without the imposition of any liens on the Premises, Tenant may postpone compliance until the final determination of such contest, provided such contest shall be prosecuted in good faith, except that Tenant shall not so postpone

compliance therewith so as to subject Landlord to any fine or penalty or to prosecution for a criminal act, or to cause the Premises, or any part thereof, to be condemned or vacated.

12. Repairs, Maintenance, Damage or Destruction of the Premises.

Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations in or to the Premises. Except in the case of Landlord’s negligence or willful misconduct or as expressly set forth in this Lease, Tenant hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Improvements thereon throughout the Term (including any repairs or reconstruction as a result of damage or destruction due to casualty), provided that Tenant shall have no obligation to construct or reconstruct any Improvements or to maintain the Improvements in any particular condition or state of repair so long as the Improvements comply with Legal Requirements. All insurance proceeds paid on account of any damage or destruction occurring on the Premises or with respect to the Solar Facility or other Improvements under the insurance policies maintained by Tenant shall be paid to Tenant. If the Improvements, including the Solar Facility, are damaged or destroyed and Tenant elects not to repair or restore the Improvements or repair or construct a new Solar Facility, Tenant shall have the right, without waiving or exercising other rights or remedies, to terminate this Lease, without penalty, effective as of the date of the damage or destruction by giving written notice to Landlord. Notwithstanding the foregoing, Landlord shall be responsible for any repairs, maintenance, replacement or other work required resulting from the failure by Landlord to comply with Environmental Laws or keep the Premises free and clear of Hazardous Substances (as hereinafter

defined); provided, however, that Tenant shall be responsible for any repairs or other work required with respect to the Landfill Cap resulting from any acts of Tenant in violation of any NJDEP regulations.

13. **Condemnation.** If, at any time during the Term, all or any part of the Premises shall be condemned or transferred in lieu of condemnation, the net proceeds of such condemnation or transfer shall be divided between Landlord and Tenant in the proportions specified in the condemnation award or agreement of transfer or, if not so specified, in proportion to the fair value of Landlord's and Tenant's respective interests in this Lease and the Premises, provided that to the extent the net proceeds of any condemnation or transfer in lieu of condemnation are attributable to the Improvements, such proceeds shall be paid solely to Tenant with Landlord receiving any proceeds attributable solely to the residual value of the fee estate of the Premises. For the purpose of this Section 13, the net proceeds of a condemnation or transfer in lieu of condemnation shall mean the total proceeds of such condemnation or transfer less the costs and expenses incurred in connection therewith (including legal fees). If the entire Land is condemned or transferred in lieu of condemnation, the Term shall terminate at the time title vests in the condemning authority. If a portion of the Premises is condemned or transferred in lieu of condemnation, the Lease shall continue in full force and effect with respect to that portion of the Premises which has not been so condemned or transferred and Basic Rent shall be equitably adjusted. Notwithstanding the foregoing, Tenant may terminate this Lease without penalty by giving written notice of termination to Landlord if, in Tenant's sole and absolute discretion, the Premises is not suitable for Tenant's intended use following such partial condemnation or transfer in lieu thereof.

14. **Mortgage of Tenant's Interest.**

(a) Tenant intends to finance the Solar Facility and the Improvements with one or more Financing Parties (defined below) through the provision of financing facilities, including but not limited to, (i) development, bridge, construction, term or permanent financing, (ii) credit support, credit enhancement, or any hedging or derivative transaction, (iii) investment capital or working capital and/or (iv) structured tax equity financing, securitization financing, sale-leaseback financing, and/or any other debt or equity financing, including without limitation, any renewals, refundings, extensions or refinancings of any of the foregoing. In connection therewith Tenant intends to enter into various agreements and execute various documents relating to such financing, which documents may, among other things, assign this Lease and the Easements and any other easements benefitting the Premises by way of direct or collateral assignment to a Financing Party, assignment of the Easements, and a lease of the Solar Facility from such Financing Party to Tenant, grant the Financing Parties a sublease or other real property interest in Tenant's interest in and to the Premises, grant a first priority security interest in Tenant's interest in the Improvements and/or this Lease and Tenant's other interests in and to the Premises, including, but not limited to, any Easements, rights of way or other similar interests (such documents, "**Financing Documents**"). Landlord acknowledges notice of the foregoing and consents to the foregoing actions and Financing Documents described above, and Landlord agrees to execute, and agrees to cause any and all of Landlord's lenders to execute, such subordination agreements, consents, estoppels and other acknowledgements of the foregoing as Tenant or the Financing Parties may request. Landlord agrees that if requested by Tenant, Landlord will furnish

the Financing Parties with a counterpart of each notice or other document delivered by Landlord to Tenant in connection with this Lease. For purposes herein, “**Financing Party**” or “**Financing Parties**” shall include (x) any individual, entity, financial institution, leasing company, or lender providing funds or extending credit to Tenant for the purpose of developing, constructing, owning, operating, maintaining, repairing, decommissioning or removing the Solar Facility and the other Improvements and (y) any collateral or administrative agent acting on behalf of any such individual, entity, financial institution, leasing company, or lender in connection with such financing.

(b) Landlord agrees not to accept a voluntary surrender of this Lease at any time while a Financing Party has a lien on the leasehold estate; and Landlord and Tenant further agree that, so long as any such Financing Party shall have a lien on the leasehold estate, without the prior written consent of such Financing Party, Landlord and Tenant will not subordinate this Lease to any mortgage which may hereafter be placed on the fee of the Land or amend or alter any terms or provisions of this Lease. This provision is for the express benefit of and shall be enforceable by such Financing Party.

(c) If at any time any Financing Party (or Tenant on behalf of a Financing Party) shall have given to Landlord, a notice specifying the name and address of such Financing Party for purposes of receiving notice, Landlord shall send by personal delivery or by certified or registered mail or overnight courier service to such Financing Party a copy of each notice of default at the same time as and whenever any such notice of default shall thereafter be given by Landlord to Tenant, addressed to such Financing Party at the address last furnished to Landlord. No notice of default by Landlord shall be deemed to have been given

unless and until a copy thereof shall have been so given to such Financing Party. Tenant irrevocably directs that Landlord accept, and Landlord agrees to accept, performance and compliance by any such Financing Party of and with any term, covenant or condition on Tenant’s part to be kept, observed or performed under this Lease with the same force and effect as though kept, observed or performed by Tenant. The Financing Party shall have the same period after delivery of notice of default to remedy the default, or cause the same to be remedied, but not the obligation to so remedy, as is given to Tenant, plus the following additional time periods: (i) thirty (30) days in the event of a monetary default; and (ii) one hundred twenty (120) days in the event of a non-monetary default. The commencement of a judicial or non-judicial foreclosure proceedings by a Financing Party shall be deemed the commencement of a non-monetary cure provided that the Financing Party thereafter diligently prosecutes the same and upon acquisition by either the Financing Party or any other direct purchaser or direct transferee of Tenant’s interest under this Lease, whether at a judicial foreclosure, foreclosure under a power of sale, trustee’s sale or by deed or assignment in lieu of foreclosure, such Financing Party, purchaser or transferee commences within one hundred twenty (120) days of acquiring such interest, and thereafter diligently prosecutes to completion, curing all defaults hereunder reasonably capable of being cured by such Financing Party or transferee.

(d) In case of the termination of this Lease by reason of the happening of an Event of Default (defined below) or the leasehold estate is foreclosed, Landlord shall give notice thereof to any Financing Party whose notice details have been provided to Landlord in accordance with Section 14(c), which notice shall be sent by personal delivery or by registered or certified mail or

overnight courier service to such Financing Party at the address last furnished to Landlord. If, within ninety (90) days after the mailing of such notice, such Financing Party shall notify Landlord that such Financing Party desires to enter into a lease of the Premises with Landlord, Landlord shall join with the Financing Party, or its nominee, in executing and delivering a new lease of the Premises to such Financing Party, or its nominee, for the remainder of the Term, at the Basic Rent and upon the terms, covenants and conditions contained in this Lease. In the event that the Event of Default under this Lease is a result of the bankruptcy of Tenant or is otherwise incapable of being cured by a Financing Party or if the Lease is rejected in connection with a bankruptcy proceeding by Tenant, a trustee in a bankruptcy or such other party to such proceeding on behalf of Tenant, within ten (10) days after a request from a Financing Party, which request has been made within thirty (30) days following said Financing Party's receipt of written notice of such Event of Default or rejection of the Lease in a bankruptcy proceeding, Landlord agrees that it will, at Financing Party's sole option, enter into a new lease with a Financing Party or its nominee for the remaining portion of the Term, and upon the terms and conditions that would have been applicable for such period under this Lease had the Event of Default not occurred, it being the intention of the parties, if a Financing Party so elects, to preserve the Lease and the benefit of the leasehold estate created by this Lease for the benefit of a Financing Party without interruption and for no additional consideration from a Financing Party. Any new lease shall be superior to all rights, liens and interests intervening between the date of this Lease and the granting of a new lease and shall be free of any and all rights of Tenant under this Lease.

(e) If Financing Party does not have the right to immediate possession or use

of the Premises, Financing Party shall not have any obligation under this Lease prior to the time that such Financing Party takes assignment of the leasehold estate and has the possession or use thereof. Any such Financing Party shall be liable to perform obligations under this Lease only for and during the period of time that such Financing Party has taken assignment of the leasehold estate. Moreover, any Financing Party or other party who acquires the leasehold estate pursuant to foreclosure or an assignment in lieu of foreclosure shall not be liable to perform any obligations hereunder once such Financing Party or other party no longer has possession and use of the leasehold estate and such possession and use has properly vested in another person or entity.

(f) The provisions of this Section 14 shall survive the expiration or earlier termination of this Lease.

15. Assignment and Subletting.

(a) Tenant shall not have the right to assign any of its rights, duties or obligations under this Lease without the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that Tenant may, without Landlord's consent, in its sole discretion assign any of its rights, duties, or obligations under this Lease and with respect to the Improvements (i) to one or more of its affiliates, (ii) to any entity which controls, is controlled by or under common control with Tenant or its affiliates (the "**Affiliate Parties**"), (iii) to a Financing Party, (iv) to any present or future purchaser of the power generated by the Solar Facilities, (v) to any person or entity purchasing or otherwise succeeding to all or substantially all of the assets of Tenant or one of the Affiliate Parties, (vi) any entity engaged in a joint venture, partnership or similar arrangement with Tenant or any Affiliate Party, (vii) to a

successor entity in a merger or acquisition transaction; or (viii) a third party that (x) has at least three (3) years of experience operating solar facilities of similar capacity as, or higher capacity than, the Solar Facility; and (y) assumes in writing all of Tenant's obligations under this Lease. Except in the case of any collateral assignment of the Lease by Tenant to any Financing Party in accordance with Section 14, any assignment by Tenant shall relieve Tenant of all future performance, liabilities, and obligations of Tenant under this Lease, provided that the assignee assumes all of the obligations of Tenant under this Lease. For the avoidance of doubt, any collateral assignment to a Financing Party shall not require any such collateral assignee to assume the obligations of Tenant under this Lease.

(b) Tenant shall have the right to sublet all or portions of the Premises, provided that each such sublease shall be subject and subordinate to this Lease and to the rights of Landlord hereunder. Upon the written request of Tenant and as long as an Event of Default under this Agreement, the Power Purchase Agreement or the Redeveloper Agreement shall not have occurred and be continuing beyond the expiration of any applicable notice and cure period, Landlord agrees to consent to such sublease in writing, which consent shall provide in substance that, so long as such subtenant complies with all the terms, covenants and conditions of its sublease, Landlord, in the exercise of any of its rights or remedies under this Lease, shall not deprive the subtenant of possession, or the right of possession, of its subleased portion of the Premises or part thereof, during the term of such sublease.

(c) Landlord may not assign, sublease, mortgage, pledge, or transfer its interest in the Premises or this Lease without the prior written consent of Tenant, which

consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary in the preceding sentence, no assignment of Landlord's interest in the Premises or the Lease shall relieve Landlord of any of its obligations under this Lease, nor may any such assignment be made unless fee title to the Property is simultaneously transferred to the permitted assignee hereunder and unless such permitted assignee has first assumed all of Landlord's obligations under this Lease in writing.

16. Default Provisions.

(a) Default. The following events shall be deemed to be events of default (each an "**Event of Default**," and collectively, the "**Events of Default**"):

(i) Failure to pay any payment required to be made hereunder as the same shall become due and payable, and such failure shall continue for twenty (20) business days after written notice of such failure has been received by the defaulting party.

(ii) Failure to comply in any material respect with any material term, provision or covenant of this Lease, other than payment of monetary sums, and if such failure continues for a period of sixty (60) days after written notice specifying such failure has been received by the defaulting party, or in the case of any such failure which cannot with due diligence and in good faith be cured within sixty (60) days, within such additional period as may be reasonably required to cure such failure with due diligence and in good faith.

(iii) Any act or omission of Landlord that in any way, directly or indirectly, impacts, affects or impairs

Tenant's ability to operate and/or the operation of the Solar Facility.

(iv) Any act of Tenant that in any way, directly or indirectly impacts, affects or impairs Landlord's obligations regarding the Landfill Cap and such act continues for thirty (30) days following written notice to Tenant thereof.

(v) Any default under the terms of the Power Purchase Agreement, this Lease or the Redevelopment Agreement beyond the expiration of any applicable notice and cure period set forth thereunder.

(b) **Remedies.** Upon the occurrence of any Event of Default, subject to the rights of any Financing Party to cure such Events of Default, the non-defaulting party may, at its option, and in addition to and cumulatively of any other rights it may have at law or in equity or under this Lease (i) cure the Event of Default on the defaulting party's behalf, in which event the defaulting party shall reimburse the non-defaulting party for all sums so expended; (ii) terminate this Lease by notice to the defaulting party and in conformity with the procedures required herein and by applicable law; or (iii) enforce, by all proper and legal suits and other means, its rights hereunder. In addition to any other remedies either party may have, the non-defaulting party shall be entitled to injunctive or other equitable relief as a remedy.

17. **Surrender of Possession.**

(a) Subject to the rights of all Financing Parties, on the expiration or earlier termination of this Lease, title to all Improvements located at the Premises shall continue to be the property of Tenant, its successors or assigns.

(b) In accordance with the foregoing, Tenant shall, on or before the last

day of the Term, or upon the earlier termination of this Lease, remove all Tenant's property, including the Solar Facility and all of Tenant's Improvements on the Premises in accordance with subsection (c) herein below, peaceably and quietly leave, surrender and yield up to Landlord the Premises, free of subtenancies in the same condition it was in as of the Effective Date, reasonable wear and tear excepted.

(c) Promptly after the expiration or earlier termination of Operational Period, Tenant shall commence to decommission, dismantle and remove the Solar Facility and all other property of Tenant located on the Premises, including all of Tenant's Improvements, returning the Premises to its condition as of the Effective Date to the extent reasonably practical (reasonable wear and tear, casualty and condemnation excepted); provided, that Tenant shall not be required to dismantle or remove any underground Improvements or to significantly alter the grade of the Premises.

(d) Prior to the date that is eleven (11) months prior to the expiration of the Initial Term, or if applicable, the then Additional Term, Tenant shall secure a bond payable to the City in an amount securing the Tenant's reasonable estimate of the cost of decommissioning the System; provided, however, that if Tenant has notified Landlord of its extension of the term of this Lease in accordance Section 3(d) hereof, then Tenant shall have until the date that is eleven (11) months prior to the expiration of then current Additional Term to post such bond.

18. **Indemnification.**

(a) **Tenant.** Tenant shall indemnify, defend and hold harmless Landlord, its affiliates, officers, directors, partners, members, agents and employees and their successors and assigns (collectively,

“**Landlord Party**”) from and against any claim, loss, expense, including reasonable attorneys’ fees, demand, lawsuit, or action for personal injury, material violation of any law or regulation or property damage (collectively, “**Losses**”), to the extent resulting from (i) the negligent or willful misconduct of Tenant or any Tenant Party (defined below); and/or (ii) the material breach by Tenant of any obligation, representation or warranty arising under the Lease.

(b) **Landlord.** Landlord shall indemnify, defend and hold harmless Tenant, its affiliates, officers, directors, partners, members, agents and employees and their successors and assigns (collectively, “**Tenant Party**”) from and against any Losses, to the extent resulting from (i) the negligent or willful misconduct of Landlord or any Landlord Party; and/or (ii) the material breach by Landlord of any obligation, representation or warranty arising under the Lease.

(c) **Consequential Damages.** Notwithstanding anything to the contrary herein, neither party shall be liable to the other for incidental, consequential, special, punitive or indirect damages, including but not limited to loss of use or loss of profit or revenue or diminution in value.

(d) **Survival.** The provisions of this Section 18 shall survive the expiration or earlier termination of this Lease.

19. **Quiet Enjoyment; Conveyance by Landlord.** As long as no Event of Default by Tenant has occurred or is continuing beyond any applicable cure period, Landlord covenants that Tenant shall and may peacefully and quietly have, hold, occupy and enjoy the Premises for the entire Term, without hindrance, ejection or molestation by Landlord or any party claiming under or

through Landlord. In no event shall Landlord permit or suffer to exist any tax lien or other encumbrance on or against the Solar Facility, any Improvements or the Premises without Tenant’s prior written consent, which may be withheld in Tenant’s sole and absolute discretion. Landlord shall pay when due all of its obligations secured by a mortgage, deed of trust or other security instrument. Upon either party’s discovery of any such lien or failure to pay any secured obligations, such party shall (a) promptly give written notice thereof to the other party, and (b) Landlord shall cause the same to be discharged of record, paid or deliver to Tenant appropriate security for payment within thirty (30) days after Landlord receives notice of delinquency or filing of same, either by payment, deposit or bond. If Landlord fails to discharge any such lien or make any such payment, within such period, or to pay any Taxes and Assessments as required to be paid by Landlord under Section 9 above, then, in addition to any other rights or remedy hereunder, Tenant may, but shall not be obligated to, make the payment or procure the discharge of the same. Any amount so paid or discharged by Tenant, and all costs and other expenses related thereto, including reasonable attorneys’ fees, in defending such any action or in procuring the discharge of such lien, together with interest thereon at 10% or the maximum permitted by law, shall be payable by Landlord to Tenant upon demand or may be deducted from the amounts owed, if any, to Landlord under this Lease, the Redevelopment Agreement or the PPA.

20. **Subordination; Non-Disturbance.** Landlord shall, at its expense, on or before the first payment of Basic Rent is due, unless earlier requested by Tenant, and as a condition to Tenant’s obligation to make any payment of Basic Rent, deliver to Tenant a subordination, non-disturbance and attornment agreement(s) (each an “**SNDA**”)

from the current and any future holder(s) of any deed of trust, mortgage or other lien encumbering the Premises, in form and substance reasonably acceptable to Tenant, which provides, among other things, that provided that an Event of Default has not occurred and be continuing, Tenant's occupancy or use of the Premises in accordance with the terms of this Lease will not be disturbed. Such SNDA shall be recorded in the official records of the county where the Premises is located.

21. **Further Assurances.** Landlord and Tenant each agree to cooperate, execute and deliver all further instruments and documents, including without limitation, a shared facilities agreement, if necessary, and take any further action that may be reasonably necessary to effectuate the purposes and intent of this Lease. Landlord's obligations hereunder include, but are not necessarily limited to, cooperation in attending zoning meetings, executing zoning-associated land use forms, executing agent access and authorization forms, executing development or construction permits, executing federal and state regulatory forms, and similar such actions. Landlord shall not grant or convey any easement or any other interest that, if used or enjoyed in accordance with its terms, would interfere with Tenant's operation, use, access to or enjoyment of the Solar Facility, the Improvements or the Premises. Tenant acknowledges that Landlord is required to maintain the Landfill Cap required by N.J.D.E.P. as part of the landfill closure and shall not interfere with the same. Landlord agrees that whenever it is provided in this Lease that the prior consent or approval of Landlord is required, Landlord will not unreasonably withhold, condition or delay the giving of such consent or approval.

22. **Limitation on Tenant's Liability.** Landlord agrees that any claim, judgment or decree of any court or arbitrator(s) against

Tenant and in favor of Landlord as a result of any default or breach of any of the terms, covenants, conditions or limitations contained in this Lease on Tenant's part to be kept, observed and performed, shall be satisfied by Landlord resorting exclusively to the Tenant's interest in this Lease, the Premises and Improvements and not against any other assets of Tenant or any Tenant Party. Landlord shall not have the right to seek or obtain a personal judgment against Tenant or any Tenant Party for any damages. The provisions of this Section 22 shall survive the expiration or earlier termination of this Lease.

23. **Landlord's Representations, Warranties and Covenants.** Landlord hereby represents, warrants and covenants to Tenant as of the Effective Date (a) to give Tenant possession of the Premises free and clear of all tenants and occupants and Landlord's personal property and equipment; (b) that there are no pending mortgages or liens that affect the Premises that have not been subordinated to this Lease in a form reasonably acceptable to Tenant; (c) that there are no pending or threatened claims, actions or suits affecting the Premises; (d) the execution and performance of this Lease by Landlord does not violate any contract, agreement or instrument to which Landlord is a party and Landlord has not entered into any contract, agreement or instrument with respect to the occupancy of the Premises with any third party other than Tenant; (e) the execution, delivery and performance by it under this Lease have been duly authorized by all necessary action by Landlord and do not violate any provision of any current law

or regulations applicable to Landlord¹ the Property or any order, judgment or decree of any court or other agency presently binding on Landlord or conflict with or result in a breach of or constitute a default under any contractual obligation of Landlord. Landlord represents and warrants that, as of the Effective Date; (i) the Premises shall be free of any Hazardous Substances (defined below) or any other substance or matter imposing liability for cleanup costs or expenses on Tenant or any of its successors and/or assigns; (ii) there are no outstanding claims and Landlord has not received any notice of any violations by any Governmental Authorities with respect to the Premises alleging a violation of applicable Legal Requirements and the Premises is in compliance with all Legal Requirements and Environmental Laws (defined below); (iii) there are no covenants, conditions, restrictions or other private restrictions encumbering the Premises which in any way limit or otherwise restrict the use of the Premises as contemplated by this Lease; and (iv) Landlord makes no representations or warranties regarding the Property or its intended use by Tenant. During the Term, Landlord will, and cause its affiliates and parties acting on its behalf to comply in all material respects with all Environmental Laws applicable to the Premises, the Solar Facility and the Improvements, which compliance also includes environmental response, cleanup, and remediation arising from a violation of Environmental Law not caused by Tenant. Landlord shall indemnify, defend and hold harmless Tenant, and Tenant Party from and against any and all claims, actions, causes of action, suits, proceedings, costs, expenses (including attorney's fees), liabilities, damages, penalties, fines, losses and liens of any type resulting from (x) the

presence or release of Hazardous Substances on or from the Premises except to the extent caused by Tenant, or (y) any environmental claim from a third party with regard to Hazardous Substances on or from the Premises or a violation or alleged violation of any Environmental Laws. The provisions of this Section 23 shall survive the expiration or earlier termination of this Lease. The term "**Hazardous Substance**" as used in this Lease shall mean any hazardous or toxic material, substance or waste, pollutant or contaminant or infectious or radioactive material, which is regulated now or in the future under any statute, law, ordinance, rule or regulation of any local, state, regional or federal authority having jurisdiction over the Property, or its use, including, but not limited to any material, substance or waste, which is: (i) defined as a solid waste, hazardous substance, toxic substance or hazardous waste under any Environmental Laws; (ii) a petroleum hydrocarbon, including crude oil or any fraction thereof and all petroleum products, and wastes; (iii) polychlorinated biphenyls; (iv) trichloroethylene, tetrachloroethylene, perchloroethylene and other chlorinated solvents; (v) lead; (vi) explosives; (vii) infectious materials; (viii) radioactive materials; or (ix) defined or regulated as a hazardous substance or hazardous waste under any rules or regulations promulgated under any Environmental Law. "**Environmental Laws**" means any federal, state or local laws, ordinances, statutes, codes, rules, regulations, orders or decrees now or hereinafter in effect relating to (A) pollution, (B) the protection or regulation of human health, natural resources or the environment, (C) the treatment, storage or disposal of Hazardous Substances, or (D) the emission, discharge, release or threatened release of Hazardous Substances into the

¹ Written opinion of Town's counsel re: Town's compliance with RFP requirements to be

delivered in connection with execution of the definitive documents.

environment, including (1) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”) (41 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act, as amended (“RCRA”) (42 U.S.C. § 6901 et seq.), and the Toxic Substances Control Act, as amended (“TSCA”) (15 U.S.C. § 2601 et seq.); and any similar or implementing state law.

24. **Tenant’s Representations, Warranties and Covenants.** Tenant hereby represents, warrants and covenants that it has inspected the Premises and accepts the same in its “as is” condition. Tenant warrants and represents it will not construct any Solar Facilities or Improvements on the Premises that will adversely impact the Landfill Cap or in any way violate the terms of the N.J.D.E.P. permit for the Landfill Cap. During the Term, Tenant will, and cause its affiliates and parties acting on its behalf to comply in all material respects with all Environmental Laws applicable to the Premises, the Solar Facility and the Improvements, which compliance also includes environmental response, cleanup, and remediation arising from a violation of Environmental Law directly caused by Tenant. Tenant shall indemnify, defend and hold harmless Landlord, and Landlord’s Party from and against any and all claims, actions, causes of action, suits, proceedings, costs, expenses (including attorney’s fees), liabilities, damages, penalties, fines, losses and liens of any type resulting from (x) the release of Hazardous Substances on or from the Premises caused by Tenant. The provisions of this Section 24 shall survive the expiration or earlier termination of this Lease.

25. **Estoppel Certificates.** Either party agrees, at any time and from time to time upon not less than ten (10) business days’ prior notice by the other party or from a Financing Party, to execute, acknowledge

and deliver to the other party, or to any person designated by the other party, a written estoppel certificate certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), and the dates to which the Basic Rent has been paid, and stating, to the knowledge of the certifying party, whether or not the other party is in default in keeping, observing or performing any term, covenant or condition contained in this Lease on the other party’s part to be kept, observed or performed and, if in default, specifying each such default, and any other factual matters pertaining to this Lease reasonably requested by the other party, it being intended that any such statement delivered pursuant to this Section 24 may be relied upon by the other party, or any prospective purchaser or encumbrancer of the Premises or any part thereof (including any Financing Party), any auditor, creditor, commercial banker, and investment banker of either party or any purchaser of Landlord’s interest in the Premises. Any party’s failure to execute, acknowledge, and deliver, on request, such an estoppel within the specified time shall constitute acknowledgment by such party to all persons entitled to rely on the estoppel certificate that either (i) the information contained in the form of estoppel certificate, if any, provided with the request is true and accurate in all respects; or (ii) if there is no form of estoppel certificate provided with the request, that this Lease is unmodified and in full force and effect; that there are, to the knowledge of the requesting party, no defaults under the Lease (or events or circumstances that with the passage of time will become defaults); or (iii) that the Basic Rent and other charges have been duly and fully paid to and including the respective due dates immediately preceding the date of the notice of request and shall constitute a waiver, with respect to all persons entitled to

rely on the estoppel certificate, of any defaults that may exist as of the outside date for return of the requested estoppel certificate; provided that said acknowledgment and waiver shall not apply to the extent such acknowledgment or waiver is inconsistent with any statement or information set out in a written notice provided by such party to the requesting party within the specified time.

26. **Notices.** All notices, approvals, disapprovals or elections required or permitted to be given under this Lease shall be in writing and shall be (i) delivered personally; (ii) mailed certified mail, return receipt requested; (iii) sent by email transmission; or (iv) sent by Federal Express or other professional carrier, to the parties at the addresses described in the Basic Lease Provisions or at such other addresses as shall be designated by Tenant or Landlord in writing. Except as expressly set forth in this Lease, notices shall be deemed given upon delivery or tender of delivery to the intended recipient; provided that notice sent by email shall only be deemed received when both (x) the sender has electronic confirmation that it was sent to all parties (and has retained a printed confirmation of the delivery to the applicable email address) and (y) at least one addressee entitled to notice under this Section 25 for the applicable party has acknowledged receipt of the transmission. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

27. **Miscellaneous Provisions.**

(a) **Attorneys' Fees.** In the event of any action between the parties hereto for enforcement or interpretation of any of the terms or conditions of this Lease, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees actually incurred, together with its other

reasonable out-of-pocket costs and expenses, including expert witness fees, accounting and other professional fees.

(b) **Waiver of Jury Trial.** EACH PARTY HERETO WAIVES, TO THE FULL EXTENT PERMITTED BY LAW, THE RIGHT TO A JURY TRIAL IN ANY LITIGATION CONCERNING THIS LEASE OR ANY DEFENSE, CLAIM, COUNTERCLAIM, CLAIM OF SET-OFF OR SIMILAR CLAIM OF ANY NATURE.

(c) **Intentionally deleted.**

(d) **Counterparts.** This Lease may be executed in counterparts. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby agree signatures transmitted by email shall be legal and binding and shall have the same full force and effect as if an original of this Lease had been delivered and hereby waive any defenses to the enforcement of the terms of this Lease based on the foregoing forms of signature.

(e) **Time Periods.** If any date for exercise of any right, giving of any notice, or performance of any provision of this Lease falls on a Saturday, Sunday or holiday, the time for performance will be extended to the next business day.

(f) **No Waiver.** The failure of either party to require strict performance by the other party of any provision of this Lease will not be considered a waiver of any other provision, nor prevent any party from enforcing that or any other performance at any time thereafter.

(g) **Further Assurances.** The parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other

actions as may be reasonably required or appropriate to carry out the intent and purposes of this Lease.

(h) **Governing Law.** This Lease is made pursuant to, and shall be construed and enforced in accordance with, the laws of the state of New Jersey.

(i) **Amendments; Entire Agreement.** This Lease contains the entire agreement between the parties and is intended by the parties to set forth their entire agreement with respect to the subject matter hereof, and any agreement hereafter made shall be ineffective to change, modify or discharge this Lease, in whole or in part, unless such agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought. Landlord and Tenant agree that all prior or contemporaneous oral or written agreements between or amongst themselves or their agents are merged in or revoked by this Lease.

(j) **Partial Invalidity.** If any term or provision of this Lease is, to any extent, determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each remaining term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

(k) **Successors and Assigns.** This Lease, and the rights and obligations of the parties hereto, shall be binding upon and inure to the benefit of the parties and their respective successors, heirs, executors, administrators and permitted assigns.

(l) **Interpretation.** The parties acknowledge that their attorneys have reviewed and revised this Lease and that any rule of construction to the effect that any

ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease or any amendments or exhibits hereto. Each party was represented by legal counsel in the negotiation of this Lease.

(m) **Headings.** The headings herein are inserted only for convenience and shall have no effect in interpreting the meaning of any provision.

(n) **Time is of the Essence.** Time is of the essence of this Lease and each and every provision of this Lease.

(o) **Memorandum of Lease.** Concurrently with the execution of this Lease, Landlord and Tenant shall execute and acknowledge before a notary public, in recordable form, and deliver a short form memorandum of lease in the form of **Exhibit E** attached hereto and incorporated herein, which shall be recorded by Tenant in the official records of the county where the Premises is located.

[Signature Page to Follow]

IN WITNESS WHEREOF, Landlord has executed this Lease on the date written below.

LANDLORD:

_____, a ____

By: _____

Name: _____

Title: _____

Date: _____

IN WITNESS WHEREOF, Tenant has executed this Lease on the date written below.

TENANT:

_____, a _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A
THE PROPERTY

[to be attached]

EXHIBIT B

THE LAND

[to be attached]

EXHIBIT C

ACCESS EASEMENT AREA

[to be attached]

EXHIBIT D

TRANSMISSION EASEMENT AREA

[to be attached]

EXHIBIT E

FORM OF MEMORANDUM OF SOLAR GROUND LEASE²

DOCUMENT PREPARED BY AND
AFTER RECORDING, PLEASE RETURN TO:

(Space Above For Recorder's Use)

MEMORANDUM OF SOLAR GROUND LEASE

This MEMORANDUM OF LEASE (the "**Memorandum**") is made and entered into as of _____, 2025, by and between, a _____ ("**Landlord**"), and _____, a _____ limited liability company ("**Tenant**").

PRELIMINARY STATEMENT

WHEREAS, Landlord is the owner of the real property located in _____ County, _____, more particularly described in Exhibit A attached hereto and made a part hereof (the "**Property**").

WHEREAS, pursuant to that certain Solar Ground Lease (the "**Lease**") dated as of _____, 2021 by and between Landlord and Tenant, Tenant leases from Landlord the land more particularly described in Exhibit B attached hereto and made a part hereof, together with all easements and similar appurtenances thereto (collectively, the "**Land**").

WHEREAS, the parties hereto desire to enter into this Memorandum so that third parties shall have notice of the existence of the Lease and of the rights and obligations of Landlord and tenant under the Lease.

AGREEMENT

NOW, THEREFORE, the parties hereto do hereby certify and agree as follows:

1. Public Notice. All members of the general public are hereby placed on notice of inquiry as to the specific provisions of the Lease and Easements, all of which are incorporated herein by reference with the same force and effect as if herein set forth in full. This Memorandum shall be recorded in the real estate records of Cumberland County in lieu of recording the entire Lease and Easement.

2. Lease. As set forth more fully in the Lease, Landlord leases to Tenant, and Tenant leases from Landlord, for the Term (as defined below), the Land in accordance with the terms and provisions of the Lease.

3. Easements. As set forth more fully in the Lease, Landlord grants to Tenant a non-exclusive easement on, over, under, across and through that portion of the Property described in

² Note: To be updated upon agreement of terms to Solar Ground Lease.

Exhibit B attached hereto and made a part hereof, for access and/or electrical transmission upon the terms and subject to the terms and conditions set forth in the Lease (the “**Easements**”).

4. Solar Energy Insolation. As set forth in the Lease, Landlord grants to Tenant the right and privilege to the free and unobstructed insolation of solar energy over (i) the Land; (ii) contiguous land owned or controlled by Landlord, or any Landlord affiliate; or (iii) adjacent land that Landlord or Landlord’s affiliate may acquire (collectively, the “**Servient Land**”); provided Landlord shall have the continued right to use the Servient Land for any uses existing as of the date of the Lease and any new uses which do not interfere with Tenant’s use of the Land. Landlord shall not permit any interference with insolation on the Land and Landlord shall not (A) construct, or permit to be constructed, any structure on the Servient Land; (B) permit the growth of foliage on the Servient Land; (C) emit or permit the emission of suspended particulate matter, smoke, fog or steam or other air-borne impediments on the Servient Land; or (D) burn or permit the burning of garbage, plant, shrub, and yard trimmings or other vegetation on the Servient Land, that, in each case described in (A) through (D) hereof, could adversely affect insolation levels on the Land. The provisions contained in this Section 3 shall be included in any instrument transferring or conveying the Servient Land.

5. Term. The term of the Lease (the “**Term**”) commenced on the Effective Date and shall terminate on the date that is [_____].

6. Successors and Assigns. The Lease provides that the provisions of the Lease are binding upon and inure to the benefit of Landlord and Tenant and each of their respective representatives, successors and assigns, subject to certain limitations.

7. Incorporation/Conflicts. All of the terms, conditions and agreements contained within the Lease are fully incorporated herein by reference as if fully set forth herein. This Memorandum is not intended to change the terms of the Lease and, in the event of a conflict between the terms and conditions of this Memorandum and the Lease, the terms and conditions of the Lease shall control. All capitalized terms not defined herein shall have the meaning set forth in the Lease.

8. Governing Law. This Memorandum shall be governed by the laws of the State of New Jersey.

9. Counterparts. The parties agree that this Memorandum may be executed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have caused this Memorandum to be duly executed under seal and delivered as of the date first written above.

LANDLORD:

_____, a

By: _____
Name: _____
Its: _____

ACKNOWLEDGEMENT³

State of _____

County _____

On the ___ day of _____ in the year ___ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

³ NTD: Acknowledgment language to be updated to match form required by host state.

TENANT:

_____ a
_____ limited liability company

By: _____
Name: _____
Its: _____

ACKNOWLEDGEMENT

State of _____

County of _____

On the ___ day of ____ in the year ___ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

EXHIBIT A to EXHIBIT C

LEGAL DESCRIPTION OF THE PROPERTY

[to be attached]

EXHIBIT B to EXHIBIT C

LEGAL DESCRIPTION OF THE LAND AND EASEMENTS

[to be attached]