

# LAND LEASE AGREEMENT

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This Land Lease Agreement (“Lease”) is made and entered into as of the Effective Date (as such term is hereinafter defined), by and between [REDACTED] (“Owner”) with an address at [REDACTED], and **SOUTSHIRE COMMUNITY SOLAR LLC** (“Tenant”), an LLC organized and existing under the laws of the State of Vermont.

WHEREAS, Owner is the owner of an approximately [REDACTED] acre parcel of real property located in Bennington, State of Vermont, (more details about the property in Exhibit “A” are attached at the end of this agreement) and referred to here as (the “Property”); an approximately one (1) acre section of the parcel (fully described in Exhibit B and referred to in this Lease as the “Site”), for the site of a community scale solar PV “farm” (the “Project”), in which participants in the Project (“Participants”) separately purchase solar panels from (“Vendor”) and (“Developer”) and its agents, will install the panels at the Site;

WHEREAS, (“Tenant”) desires to lease from Owner and Owner desires to lease to (“Tenant”) WHEREAS, the power from the Participants’ solar panels will be fed into the Green Mountain Power (“GMP”) electric grid and GMP will issue credits representing the power with an agreed upon formula, (See Exhibit C of Operating Agreement) under which a portion (See Section 3) of the credits will be allocated to Owner to offset Owner’s electrical use as land lease payments for use of the Site, and the balance will be allocated on a pro-rata basis to Participants via net metering to offset Participants’ electrical use;

WHEREAS, (“Tenant”) has been organized for the purpose of managing certain administrative and financial matters on the Participants’ behalf, including acting as liaison with Owner and GMP;

WHEREAS, the parties desire to set forth the terms and conditions of the lease through this agreement;

NOW, THEREFORE, in consideration of all covenants contained in this lease agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to be legally bound:

**Section 1: Lease of Premises.** Owner agrees to lease to (“Tenant”), and (“Tenant”) agrees to lease from Owner, the Site for the purposes described herein, together with all required utility Easements (as such term is hereinafter defined) and rights of access to the Site (as described in Exhibit B) TO HAVE AND TO HOLD the Site, the Easements and rights of access, together with all rights, privileges, easements and appurtenances thereunto belonging and attaching, unto (“Tenant”). This Lease sets forth the covenants and agreements that the parties agree to comply with during the Term (as such term is defined in Section 2).

**Section 2: Term.** The term of this Lease (the “Term”) shall be twenty five (25) years, commencing on the Effective Date and expiring on the twenty fifth (25th) anniversary of the Effective Date, unless otherwise terminated at an earlier date in accordance with the terms of this Lease.

**Section 3: Lease Payments.** For purposes of this agreement, the lease payments made to Owner by (“Tenant”) for the use of the Site and Easements shall be the electric output of **five percent (5%)** of the energy production of the Project (**approximately \$2,000/year in GMP credits**), which shall be paid by net meter credits to Owner’s GMP Account No. [REDACTED] (or any successor account that may be designated by Owner).

**Section 4: Feasibility and Permitting Period.**

(a) During the Feasibility Period, commencing on the Effective Date and terminating twelve (12) months after (the period may be extended pursuant to Section 4(c) h), (“the Developer”) and/or any of its agent(s), other contractor, subcontractor, repairman, utility installer, or other person (all referred to here as “Contractor”) whose services at the Site are required in connection with the Project are hereby granted the right, at no cost to the Owner or (“LLC”), to enter upon the Site and Property and conduct such analyses, tests, reviews, inspections and studies (collectively, the “Tests”) as are required to determine the suitability of the Site for Tenant’s intended use and to obtain any and all permits, licenses, agreements and entitlements necessary for said use. Such Tests may include, but are not limited to, surveys, soil tests, environmental evaluations, solar assessments, and other Tests as the (“Developer”) or its Contractor finds necessary. In addition, Tenant may obtain an abstract or preliminary title report (the “Title Report”) regarding the Property from a title insurance company of its choice. Tenant shall not be liable to Owner or any third party for any pre-existing defect, condition or encumbrance on or with respect to the Property, title to the Property and/or any improvements located on the Property, regardless of whether such defect, condition or encumbrance is disclosed by the Tests or the Title Report, or otherwise known by Tenant.

(b) During the Feasibility Period and throughout the Term, Owner shall cooperate with (“Developer”) and its Contractor and shall execute all documents required to assist in obtaining all permits and to permit Tenant’s intended use of the Site and the Easements in compliance with zoning, land use, utility service and building laws, rules, ordinances, permits, approvals, variances and other governing rules and regulations. Owner shall not take any action that would adversely affect (“Developer”) or its Contractor’s ability to obtain or maintain any governmental approval. Owner hereby appoints the (“Developer”), its Contractor, or any other agent of (“Developer”) as described in Subsection (a) of this Section 4 as its agent for the limited purpose of making such filings and taking such actions as are necessary to obtain any desired zoning and land use approvals and/or building permits regarding this Project, the Site and the Easements.

(c) Tenant shall have the right to extend the Feasibility Period for additional six (6) month periods (each called a “Feasibility Extension Period”; collectively the “Feasibility Extension Periods”) by providing written notice thereof to Owner at least ten (10) days prior to expiration of the Feasibility Period or the Feasibility Extension Period if in effect, provided that: (i) (“Developer”) and its Contractor is diligently and in good faith seeking to obtain the Approvals (as such term is hereinafter defined); (ii) a required Approval has not been rejected without an opportunity to appeal; and (iii) Contractor pays to Owner the sum of \$0.00 for each Feasibility Extension Period that Tenant extends in accordance with the terms of this agreement, where each payment is to be made prior to the commencement of the Feasibility Extension Period to which such payment relates.

(d) If, in the sole and absolute discretion of the Developer and/or its Contractor, the Site and Property are not suitable for the use of a solar array, or said Developer and/or its Contractor determines that the construction and operation of the Project on the Site and Property would not be in the best interest of Tenant, Participants, or Developer/Contractor, by and through their agents, are unsuccessful in obtaining the permits necessary for the solar array, then **Tenant shall have the right at any time prior to the expiration of the Feasibility Period and any Feasibility Extension Period to terminate this Lease by providing written notice to Owner.** Upon and after such termination, neither Owner nor Tenant shall have any further obligation or liability under this Lease except as otherwise expressly provided in this Lease.

(e) If the state of title to the Property as set forth in the Title Report indicates any liens, claims or encumbrances which may interfere with Tenant's use and operation of the Site and/or the Easements, Tenant shall have the right but not the obligation to either (i) attempt to discharge such liens, claims and/or encumbrances, if possible, and deduct the cost thereof from the lease payments due in accordance with Section 3 of this Lease, or (ii) terminate this Lease by providing written notice thereof to Owner. Upon and after such termination, neither Owner nor Tenant shall have any further obligation or liability under this Lease except as otherwise expressly provided herein.

(f) Developer shall pay for all costs incurred by them in connection with the Tests and its permitting and approval activities with regard to the Site and the Easements and its general due diligence review of the Property.

(g) Developer agrees to promptly, to the extent reasonably practicable under the circumstances, repair any damage to the Property that is caused by the Tests and restore the Property to the condition it was in immediately prior to such Tests.

(h) The provisions of this Section 4(f) – (h) shall survive the termination of this Lease for a period of one (1) year, notwithstanding anything in this Lease to the contrary.

#### **Section 5: Use.**

(a) Developer, either solely or by and through its Contractor(s), is granted the sole right to use the Site for the purpose of constructing, installing, removing, replacing, reconstructing, maintaining and operating a solar array project, including solar panels, equipment, equipment shelters and buildings, electronics equipment, generators and other equipment, improvements and such other personal property, fencing and landscaping around the perimeter of the Site or the portion thereof within which such Project shall be located (the "Solar Compound"), and a gate to the Solar Compound, all as described and depicted in Exhibit B (collectively, the "Solar Facility"). Any and all such materials installed by Developer and/or its Contractor in, on, or under the Property shall be deemed property of the individual members of Tenant or third parties, and shall not become fixtures or deemed a permanent part of the Property. Developer and/or its Contractor shall have the right to alter, replace, expand, enhance and upgrade the Solar Facility within the Site at any time during the Term of this Lease. Developer shall cause the construction of and all modifications to the Solar Facility to occur in material compliance with all applicable laws, rules, regulations, ordinances, permits, approvals and variances.

(b) Tenant (and/or their designated service contractors) shall keep and maintain the Solar Facility now or hereafter located on the Site in good condition and repair, and shall maintain and operate the Solar Facility in material compliance with all applicable federal, state and local laws, rules, regulations, ordinances, permits, approvals and variances, normal wear and tear and casualty not caused by Tenant or any employee, agent, contractor or representative thereof excepted.

(c) Developer and/or its Contractor, shall have the right to fence the Site or the Solar Compound and shall have the right to clear and keep the Site and Easements clear of all trees, bushes, rocks, crops and other vegetation using mechanical means, provided that no pesticides or herbicides shall be used at any time. During the construction or any required major repair or reconstruction of the Solar Facility only, Developer and/or its Contractor shall have the right to use portions of the Property adjacent to the Site in connection with the construction, repair or reconstruction of the Solar Facility at the Site. **If the construction or maintenance of the Solar Facility results in damage to any adjacent lands of Owner (other than as permitted or otherwise contemplated herein), Owner shall have the right to look to Developer to pay to Owner any sum reasonably required to be expended by Owner to affect the repair of such damage.**

(d) Developer will pay for all utilities services used at the Site. If the Site does not have utilities services thereat, Developer shall have the right to cause utilities services to be installed at the Site, at its sole expense. Owner agrees to use reasonable efforts to assist Developer in acquiring any necessary utilities services to the Site. Owner is not liable for any costs incurred for utilities services used at the Site and caused by the Project. Costs for utilities services shall be paid in the manner agreed upon by Developer and the Participants of (LLC).

(e) As partial consideration for the rent paid pursuant to this Lease, Owner hereby grants to Contractor and its successors and assigns, during the Term, easements in, under, and across the Property: (i) for ingress, egress and access to the Site, by foot and motor vehicles (including trucks); (ii) to install utilities services; (iii) to install storm water management systems; (iv) for the installation and maintenance of equipment, utility wires, poles, cables, conduits, drainage lines, and pipes to operate the Project and accommodate the permitted use of the Site by Tenant and Contractor; and (v) to capture, use and convert the unobstructed solar resources at the Site (collectively, the “Easements”). The Easements shall be located on the Property in the areas described and depicted in Exhibit B hereto or as required in order to effectively operate the Project. The Easements granted hereunder shall have the same term as this Lease. In the event that any utility company requires an easement not otherwise located with the area of the Easements to provide utilities services to Contractor, Owner agrees to grant such necessary easement to said utility company. Such additional easements in favor of the utility companies shall be located within the Property in an area(s) that is/are mutually approved by and acceptable to Owner, such utility companies, and Contractor. Owner shall not be entitled to payment of any additional amount for use of any Easements or any electromagnetic, visual, view, light, noise, vibration, electrical, or other effects attributable to the Easements or other aspects of the Solar Facility.

(f) The Easements are non-exclusive easements to and for the benefit of Tenant, Developer and its Contractor(s) and its respective successors and assigns. Developer and its Contractor(s) shall have the right to construct, maintain and repair a roadway over the aforementioned Easements, including such work as may be necessary for slope and drainage and to install such poles, wires, pipes, cables, conduits

and related appurtenances as shall be necessary for the proper conduct of the Project at the Site, and for electricity, water, telephone and gas services. **If Owner or other tenants, employees, agents, contractors or invitees of Owner damage or disturb the Easements, then Owner or Owner's other tenants, employees, agents, contractors and invitees shall share in the reasonable and proportionate costs incurred to repair such Easements.** Owner represents and warrants that the intended use of the Site and the Easements by Tenant, Developer and/or its Contractor does not conflict with any agreements, restrictions, covenants, conditions, easements or licenses, whether or not of record, that affect the Premises and/or the Easements.

(g) Tenant, Tenant's invitees, and Developer and/or its Contractor shall have reasonable access to the Site and the Easements (the "Access") for the purposes of constructing and maintaining the Solar Facility during the Initial Term of this Lease and any Renewal Term, provided that, barring exigent circumstances, all work shall be performed during daylight hours only. Tenant, Tenant's invitees, and Developer and/or its Contractor, shall have the right to park their vehicles on the Property during construction, repair, replacement and/or servicing of the Solar Facility. All other access to the site by the Tenant, Tenant's invitees or the Developer and/or its Contractor will only be allowed through the advance notice and approval of the Owner.

(h) Tenant covenants that it shall comply with the decommissioning plan approved by the Public Service Board in connection with the issuance of its Certificate of Public Good.

#### **Section 6: Assignment.**

(a) Upon notice to Owner, Tenant shall have the right to assign or transfer its rights under this Lease, in whole or in part, to any person or any business entity at any time, subject to the assignee assuming all of Tenant's obligations hereunder. After delivery by Tenant to Owner of an instrument of assumption by an assignee wherein such assignee assumes all of the obligations of Tenant under this Lease, Tenant will thereafter be relieved of all liabilities and obligations pursuant to this Lease.

(b) Owner may assign its rights and obligations under this Lease to its successor in interest in and to the Property without the prior consent of Tenant. The parties agree that Tenant's rights under this Lease shall continue for the full Term and any renewal regardless of a sale, conveyance, transfer or other disposition of the Property or any part thereof or interest therein. Owner agrees that all sales, leases and transfers of the Property or any part thereof, and the granting of any easement, encumbering or interest in and to the Property or any part thereof, shall, during the Term and any renewal term, be subject to this Lease. Owner also agrees that all such sales, leases, and transfers of the Property and granting of any easement shall be subject to Tenant's rights and options under this Lease for the duration of the Term and any renewal term and shall not adversely affect the use of the Site or Easements by Tenant, Tenant's agents, contractors and invitees.

#### **Section 7: Taxes.**

(a) As of the date that the Solar Facility becomes operational (the "Commencement Date"), Tenant agrees to pay or ensures payment will be made when due because of any increase in real estate taxes, municipal charges and assessments, as determined by tax authorities, due against the Property because of the Solar Facility's presence on the Property. Owner shall cooperate with Tenant in the protest

of any tax assessment by providing Tenant with information regarding the relative valuation of the Property and allowing Tenant to participate in any proceeding related to such tax protest. Nothing in this Section 7(a) shall be construed as limiting Tenant's right to contest, appeal, or challenge any tax assessment.

(b) Tenant shall pay when due all personal property taxes that are directly attributable to the presence or installation of the Solar Facility on the Property.

**Section 8: Removal of Solar Facility.** Upon written request of Owner given to Tenant within ten (10) days of the expiration or earlier termination of this Lease, or at Tenant's option, all personal property and trade fixtures of Tenant and Participants, specifically including, but not limited to, the Solar Facility, shall be removed by Tenant from the Site within 90 days after the expiration or earlier termination of this Lease or as soon thereafter as weather and ground conditions reasonably allow. In addition, Tenant shall, at its sole cost and expense, restore the Site to its original condition. Tenant shall have the right at any time during the Term of this Lease to remove the Solar Facility from the Site without the consent of the Owner.

**Section 9: Insurance.** At its sole cost and expense and to the extent available, Tenant shall procure and maintain during the Term and any renewal term a Commercial General Liability policy insuring against liability for injury or death of a person or persons or damage to property occasioned by or arising out of or in connection with Tenant's occupation and use of the Site or activities thereon. Tenant's insurance policy shall name Owner as an additional insured.

**Section 10: Termination.** Tenant may terminate this Agreement at any time, in its sole discretion, upon written notice thereof to Owner prior to the Commencement Date. Further, this Agreement may be terminated by Tenant immediately, at any time, upon giving written notice to Owner, if: (a) Tenant cannot obtain all governmental certificates, permits, variances, leases or other approvals (each an "Approval", collectively, the "Approvals") and/or any easements required for the installation and operation of the Solar Facility at the Site as contemplated hereunder; (b) any Approval is canceled, terminated, or expires or lapses; (c) Owner fails to deliver to Tenant any non-disturbance agreement or subordination agreement required hereunder; (d) Owner fails to have proper ownership of the Property and/or authority to enter into this Agreement; (e) Tenant determines that the Property contains Hazardous Substances (as such term is defined below) and such Hazardous Substances were not introduced to the Property by Tenant; or (f) Owner is in default hereunder and fails to cure such default within the periods specified in and otherwise in accordance with the terms set forth in this agreement. Any termination of this Agreement pursuant to this Section 10 shall not constitute a waiver of Tenant's rights under Section 11 below.

**Section 11: Indemnity and Arbitration.**

(a) Owner and Tenant each agree to indemnify and hold harmless the other party from and against any and all claims, losses, liabilities, obligations, damages, cost and expenses, including reasonable attorney fees (collectively, the "Losses"), to the extent caused by or arising out of the negligent acts or omissions of the indemnifying party; or (b) a breach of or default by the indemnifying party under this Lease that has not been cured in accordance with the terms hereof. Notwithstanding the foregoing, this indemnification shall not extend to Losses exclusively arising from the negligence or

intentional misconduct of the indemnified party. The indemnifying party's obligations under this section are contingent upon (i) its receiving prompt written notice of any event giving rise to an obligation to indemnify the other party hereto, and (ii) the indemnified party's granting such indemnifying party the right to control the defense and settlement of the matter for which indemnification is being given, provided that no such settlement shall be agreed to or otherwise effective unless the same has been approved in advance by the indemnified party, such approval not be unreasonably withheld, and the indemnified party shall have the right to participate in such defense with counsel selected by the indemnified party, and all costs and expenses of such counsel selected by the indemnified party shall be borne exclusively by the indemnified party.

(b) In the event a dispute shall arise between the parties to this Lease, **it is hereby agreed that the dispute shall be submitted to binding arbitration** in accordance with the rules then prevailing of the American Arbitration Association. The arbitrator's decision shall be final and binding, and judgment may be entered thereon. The cost of any such arbitration shall be paid as determined by the arbitrators. The judgment rendered by the arbitrators may be entered into any court of competent jurisdiction.

#### **Section 12: Hazardous Substances.**

(a) Owner hereby represents warrants that it has no knowledge of any substance, chemical, or waste (collectively, the "Hazardous Substances") on the Property that is identified as hazardous, toxic, or dangerous in any applicable federal, state, or local law or regulation. Owner has not introduced or used and shall not introduce or use any Hazardous Substance on the Property in violation of any applicable law. Owner shall be responsible for, and shall promptly conduct, any investigation and remediation as required by any applicable environmental laws of all spills or other releases of any Hazardous Substance caused solely by Owner or any employee, agent, contractor, representative or affiliate of the Owner, that have occurred or may occur on the Property during the Term of this Lease.

(b) The Tenant, Tenant's Agents, the Developer, Developer's Contractor(s), and all other agents not under control of Owner, hereby represents and warrants that it shall not: (i) bury underground or discharge into the sewage system at the Property any Hazardous Substances, or (ii) use the Property as a storage site for Hazardous Substances, except minimal quantities used in the ordinary course of the Tenant, Tenant's Agents, the Developer, Developer's Contractor(s) business in accordance with all applicable environmental laws.

(c) The Tenant, Tenant's Agents, the Developer, Developer's Contractor(s) and Owner each agree to defend, indemnify, and hold harmless the other party from and against all administrative and judicial actions and rulings, claims, causes of action, demands and liabilities (collectively, the "Claims") including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that indemnified party may suffer or incur due to the existence or discovery of any Hazardous Substances on the Property or the migration of any Hazardous Substance to other properties or the release of any Hazardous Substance into the environment (collectively, the "Actions"), that arise from the indemnifying party's activities on or at the Property. The indemnification obligations set forth in this Subsection 12(c) specifically include, without limitation, costs incurred in connection with any investigation of site conditions and/or any cleanup, remedial, removal or restoration work

required by any governmental authority. This Subsection 12(c) shall survive the termination or expiration of this Lease.

**Section 13: Casualty/Condemnation.**

(a) If there is a condemnation of the Site, the Easements and/or the Property (or a portion thereof which is sufficient to render the Site and/or the Easements unsuitable for Tenant's purposes), including but not limited to a transfer of the Site, the Easements and/or the Property or a part thereof by consensual deed in lieu of condemnation, then this Lease shall, at the option of Tenant, terminate upon transfer of title to the condemning or deeded authority, without further liability to either party hereunder (except as otherwise expressly provided herein). The lease payment due hereunder shall be prorated to the date of the taking, and Tenant shall not be required to make any payments for the period following the date of such taking. Tenant and Owner shall be entitled to pursue their own separate condemnation awards with respect to any such taking (which award to Tenant may include, where applicable, the value of the Solar Facility, moving expenses, prepaid rent to the extent not reimbursed to Tenant by Owner, and business dislocation expenses).

(b) If the Site, the Easements and/or the Property are damaged or destroyed to an extent sufficient to render the Site and/or the Easements unsuitable for Tenant's purposes, Tenant shall have the right, but not the obligation, to not rebuild, replace or repair any improvement and to terminate this Lease as of the date that such damage or destruction occurred, without prejudice to or otherwise affecting any rights or remedies that Tenant may have hereunder or at law or in equity, and the Annual Rent due hereunder shall be prorated to such date of termination.

(c) Notwithstanding anything in this Lease to the contrary, in the event of any casualty to or condemnation of the Property or any portion thereof during such time as any Security Instrument (as such term is hereinafter defined) shall remain unsatisfied, the Financing Entity in whose favor such Security Instrument has been granted shall be entitled to receive all insurance proceeds and/or condemnation awards (up to the amount of the indebtedness secured by such Security Instrument) otherwise payable to Tenant and apply such proceeds in accordance with the terms of the Security Instrument, and shall further have the right, but not the obligation, to restore the Property in the event that the same is damaged or destroyed.

**Section 14: Quiet Enjoyment.**

(a) Owner agrees that Tenant, upon making lease payments and complying with all covenants and terms of this Lease, shall and may peaceably and quietly have, hold and enjoy the Site and the Easements and all related appurtenances, rights, privileges and easements throughout the Term and any renewal term without any unlawful hindrance or interruption by Owner and any person claiming to act by, through, or under Owner. Owner shall have access to the Site but shall not take any action to interfere with the optimal and safe operation or maintenance of the Solar Facility.

(b) The Solar Facility shall be the exclusive property of and owned by the Tenant. Owner covenants and agrees that neither the Solar Facility nor any part of the improvements constructed, erected or placed by the Developer and its Contractor(s) on the Site or the Easements shall become or be considered as being affixed to or a part of the Property, it being the specific intention of Owner that the

Solar Facility and all improvements of every kind and nature constructed, erected, or placed by the Tenant, Tenant's agents, Developer, Contractors or invitees on the Site and the Easements shall be and remain the property of the members of Tenant. Owner agrees and acknowledges that none of the assets and properties of Tenant or its members, including, without limitation, the Solar Facility and Tenant's trade fixtures, shall become the property of Owner upon termination or expiration of the Lease. Owner hereby waives any and all lien rights and/or security interests it may have, statutory or otherwise, in or otherwise with regard to the Solar Facility or any portion thereof.

(c) Owner agrees for itself and all future holders of the Property that no use shall be made of the Property that would interfere with Tenant's use of the Site and the Easements as described herein, including, without limitation, the operation of the Solar Facility.

(d) Owner hereby represents and warrants to Tenant that: (i) Owner is the fee owner of the Site and the Easements and the lands immediately adjacent which comprise the easements and rights of way granted to Tenant in this Lease; (ii) such ownership is free and clear of all liens, claims, and encumbrances other than those which do not interfere with Tenant's use of and operations at the Site and the Easements; (iii) Owner has the lawful right and authority to execute this Lease and to grant the leasehold interests, easements, rights of way, and other rights described herein; (iv) the Property (including the Site and the Easements), and all improvements located thereon (other than improvements constructed by Tenant), are in substantial compliance with all laws, rules, regulations and ordinances, including, but not limited to, building, life/safety, disability and other laws, codes and regulations of applicable governmental authorities; and (v) Owner has obtained and delivered to Tenant the consents of all parties other than Owner that hold any encumbrance upon or interest in the Site and/or the Easements to the existence, execution, and delivery of this Lease, the granting of a leasehold interest in the Site and the granting of the Easements to Tenant in accordance with the terms in this Lease, and Tenants and its successors and assigns utilization of the Site and the Easements for the purposes described herein.

**Section 15: Default.** Notwithstanding anything contained herein to the contrary, and without waiving any other rights granted at law or in equity, if either party is in default under this Lease for a period of (i) forty-five (45) days following receipt of notice of default from the non-defaulting party, and where the default may be cured solely by the payment of money; or (ii) sixty (60) days following receipt of notice of default from the non-defaulting party with respect to a default which may not be cured solely by the payment of money, then, in either event, the non-defaulting party may pursue any remedies available against the defaulting party under applicable law or in equity, subject to the terms of Section 14(b) of this Lease. If a non-monetary default may not reasonably be cured within such 60 day period, the Lease may not be terminated if the defaulting party commences action to cure the default within such 60 day period and proceeds with due diligence to fully cure the default as soon as reasonably practicable thereafter.

**Section 16: Subordination and Non-Disturbance.**

(a) Tenant acknowledges that prior to the Commencement Date, Owner may have granted a mortgage(s), deed(s) of trust, or other security instrument which encumber some or all of the Property and/or the Easements to certain institutions or persons (collectively, the "Mortgagees"; individually, a "Mortgagee"). Tenant also acknowledges that Owner, may grant a mortgage(s), deed(s) of trust or other

security instrument which encumber some or all of the Property and/or the Easements to certain institutions or persons on or after the Commencement Date.

(b) With regard to each Mortgage that is in effect and/or of record on or prior to the recordation of the Memorandum of Lease, (“MOL”), (see Exhibit C), Owner will request from the Mortgagee to execute and deliver to Tenant a subordination, non-disturbance and attornment agreement (“SNDA Agreement”) among Owner, Tenant and Mortgagee. In the SNDA Agreement: (i) Tenant confirms that this Lease is subordinated to the Mortgage granted to Mortgagee; (ii) Tenant agrees to attorn to Mortgagee in the event that the Mortgagee acquires title to the Property; and (iii) **Mortgagee agrees to honor the Lease in the event of foreclosure under the Mortgage to which Owner and Mortgagee are parties, and that the Lease shall remain in full force and effect and shall not be terminated, and Tenant shall be permitted to exercise all of its rights and remedies, as long as Tenant is not in default under the Lease.** If Owner fails to deliver a SNDA agreement to Tenant on or prior to the execution of the MOL, then Tenant shall have the right, in its sole discretion, to terminate this Lease by proving written notice thereof to Owner. Upon such termination neither of the parties hereto shall have any further obligations or liabilities hereunder.

(c) With regard to each Mortgage in effect and/or of record after the recordation of the MOL, Tenant shall promptly enter into a SNDA Agreement with Owner and the Mortgagee thereunder. If Tenant fails to deliver a SNDA Agreement to Owner, then Owner shall have the right, in its sole discretion, to terminate this Lease by proving written notice thereof to Tenant, and upon such termination neither of the parties hereto shall have any further obligations or liabilities hereunder.

(d) With regard to each Mortgage granted by the Owner after the recordation of the MOL, Owner shall promptly request the Mortgagee execute and deliver to Tenant a SNDA Agreement among Owner, Tenant and Mortgagee. If Owner and Mortgagee fail to deliver a SNDA Agreement to Tenant, then Tenant shall have the right, in its sole discretion, to terminate this Lease by proving written notice thereof to Owner, and upon such termination neither of the parties hereto shall have any further obligations or liabilities hereunder.

(e) The parties hereto covenant and agree that, notwithstanding anything to the contrary set forth herein, the form and terms of each SNDA Agreement shall be mutually approved by and deemed acceptable to Owner, Tenant, and the Mortgagee that is a party to such SNDA Agreement.

### **Section 17: Solar Energy Environmental Attributes**

(a) A net-metered customer (“Net Metered Customer”) for the purposes of this Section is defined as a Vermont electric consumer who receives net metered energy from the Solar Facility, including the Participants and Owner.

(b) Each Net Metered Customer shall own and retain the environmental attributes of their net metered energy produced by the Solar Facility and shall have sole rights to make any green or renewable energy claims in regards to their net metered energy. Net Metered Customers shall not unbundle or separately sell the environmental attributes, including any renewable energy credits or certificates, from the net-metered electricity.

**Section 18: ACKNOWLEDGMENT OF ARBITRATION**

Owner and Tenant each acknowledge that this Lease Agreement contains an agreement to arbitrate (Section 11(b)). After signing this document, **Owner and Tenant each understand that it will not be able to bring a lawsuit concerning any disputes that may arise which is covered by the arbitration agreement**, unless it involves a question of constitutional or civil rights. Instead, Owner and Tenant each agree to submit any such dispute to an impartial arbitrator.

**Section 19: Miscellaneous.**

(a) Owner and Tenant each represent and warrant that they have all right and authority to execute this Lease, and that, upon execution of this Lease, the Lease shall be fully binding upon all parties.

(b) This Lease sets forth and contains the entire agreement between the parties hereto regarding the subject matter hereof, and supersedes all prior discussions, agreements and negotiations between the parties with regard to the subject matter hereof.

(c) The parties may sign this Lease in multiple counterparts, each of which, when executed, shall be deemed to be an original instrument, and all of which, taken together, shall constitute one and the same agreement.

(d) The terms and conditions of this Lease shall extend to and bind the heirs, personal representatives, successors, and assigns of Owner and Tenant.

(e) In the case a dispute arises that does not follow the resolution terms agreed upon per the indemnification and arbitration clause (see Section 11), the substantially prevailing party in any action or proceeding in court to enforce the terms of this Lease shall be entitled to receive its reasonable attorneys' fees and other reasonable enforcement costs and expenses from the non-prevailing party.

(f) Owner shall at Tenant's request execute, acknowledge and deliver to Tenant for recording a Memorandum/Notice of Lease (the "MOL") in the form of Exhibit "C" attached hereto. Owner hereby grants to Tenant permission to insert the Commencement Date of this Agreement into the MOL after execution of the MOL and to record the MOL in the proper jurisdiction.

(g) Notices, requests, and other communication shall be in writing and sent by United States Mail, postage prepaid, certified or registered with return receipt requested, or by any nationally recognized overnight courier service for priority delivery, to the respective addresses set forth below. Any such notice shall be deemed given when deposited in the United States Mail or delivered to such courier service. Notices shall be sent to:

For Tenant: Southshire Community Solar LLC, 160 Brambly Lane, Bennington, VT 05201

For Owner: \_\_\_\_\_

Either party may change the address for notice by notice to the other.

(h) This Lease shall be governed by and construed in accordance with the laws of the state in which the Property is located, without giving effect to the conflicts of laws rules of such state.

(i) If Owner is represented by any broker or any other leasing agent in connection with the transactions contemplated by this Lease, Owner shall be responsible for and shall pay when due all commissions, fees and/or other payments to such agent, and agrees to indemnify and hold Tenant harmless from all claims by such broker or anyone claiming through such broker with regard to such commissions, fees and payments. If Tenant is represented by any broker or any other leasing agent in connection with the transactions contemplated by this Lease, Tenant shall be responsible for and shall pay when due all commissions, fees and/or other payments to such agent, and agrees to indemnify and hold Owner harmless from all claims by such broker or anyone claiming through such broker with regard to such commissions, fees and payments.

j) This Agreement may not be amended, supplemented or restated except by a written instrument that has been executed and delivered by each of the parties hereto.

(k) The effective date of this Lease is the date of execution by the last party to sign the Lease (the "Effective Date").

(l) The waiver by any party hereto of a breach of any provision of this Lease shall not bar or be construed as a waiver of any subsequent breach by any party.

(m) If any provision of this Lease is found by a court of competent jurisdiction to be unenforceable or illegal, such findings shall not impair the remaining provisions of this Lease and the remainder of this Lease shall be enforceable as if such illegal or invalid provision had not been contained within this Lease.

IN WITNESS WHEREOF, the parties do hereby execute this Agreement as of the  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

IN PRESENCE OF:

**(NAME OF OWNER)**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**(NAME OF OWNER)**, as Owner

**Southshire Community Solar LLC, as Tenant**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Duly Authorized Agent

**Power Guru, LLC, as Developer**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Duly Authorized Agent

STATE OF VERMONT  
COUNTY OF BENNINGTON, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 2015, personally appeared **(NAME OF OWNER)** to me known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed.

Before me, \_\_\_\_\_  
Notary Public

Printed Name: \_\_\_\_\_

Notary commission issued in \_\_\_\_\_ County

My commission expires: \_\_\_\_\_

STATE OF VERMONT  
COUNTY OF BENNINGTON, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared \_\_\_\_\_ Duly Authorized Agent of **Southshire Community Solar LLC** to me known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of **Southshire Community Solar LLC**.

Before me, \_\_\_\_\_  
Notary Public

Printed Name: \_\_\_\_\_

Notary commission issued in \_\_\_\_\_ County  
My commission expires: \_\_\_\_\_ (Date)

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

The subject property is a        Acre (approximately) parcel including (i.e. lands and premises, farm buildings and easements). The entire parcel, located in (enter location by address or in manner recorded by municipality). Said overall parcel is described and annotated by metes and bounds descriptions in the following deeds recorded in the (Municipal) Land Records:

1. (Include here, if any, a) Warranty Deed of any (Person), dated (Date) and recorded on (Location).
2. (Include here, if any, a) Quit Claim Deed of (Person) dated (Date) and recorded in (Location).

The following Rights of Way and Easements are annotated in the Deeds mentioned above.

1. (Include here, if any a) Right of Way in warranty Deed, (Date and Location)
2. (Include here, if any a) Utility Line Easements: (Location).

## **EXHIBIT “B”**

### **DESCRIPTION OF THE SOLAR FACILITY AND SITE**

A 150kW AC nameplate solar generating facility (System) as specifically designed, approved and permitted in the Certificate of Public Good issued by the Public Service Board.

The system shall be comprised of 325 watt solar modules, required racking assembly, combiner boxes, inverters, panel boards, fuses, disconnects, data acquisition equipment, and meters consistent with all local, state, and federal codes.

The area to be utilized by the solar facility will be approximately 1.0 Acres. The solar facility will be located in the northernmost cleared field as depicted below.

**THIS IS A PRELIMINARY SITE LAYOUT FOR LOCATION PURPOSES ONLY. FINAL LAYOUT AND SYSTEM SIZE MAY BE AMENDED DURING FEASIBILITY AND PERMITTING PERIOD (SEE SECTION 4).**

**EXHIBIT "C"**

**MEMORANDUM/NOTICE OF LEASE**

Site Name/Location: **SOUTHSHIRE COMMUNITY SOLAR LLC**  
**[REDACTED]**

This Memorandum/Notice of Lease, dated as of \_\_\_\_\_, 20\_\_\_\_, evidences that a Land Lease Agreement (the "Lease") dated as of \_\_\_\_\_, 20\_\_\_\_, was made and written between \_\_\_\_\_ ("Lessor"), and **SOUTHSHIRE COMMUNITY SOLAR LLC** ("Lessee"), a Vermont limited liability company with an address at **160 Brambley Lane, Bennington, VT**, and the terms and conditions of such Lease are incorporated herein by this reference. Nothing in this Memorandum/Notice of Lease shall be deemed to modify, amend, limit, or otherwise affect the terms and conditions of the Lease. In the event of any inconsistency between the terms of this Memorandum/Notice of Lease and the terms of the Lease, the terms of the Lease shall control.

Such Lease provides in part that Lessor leases to Lessee a certain parcel of real property located at **[REDACTED]**, Town of **[REDACTED]**, State of Vermont, more particularly described in Exhibit A attached hereto (the "Solar Site"). [The Solar Site is situated within a larger parcel of real property that is owned by Lessor and more particularly described in Exhibit A attached hereto ("Lessor's Property").] Pursuant to the Lease, Lessor has also granted to Lessee an easement for non-exclusive rights of access to the Solar Site and for electric, stormwater management, and other utilities services and facilities to the Solar Site. The date of the Lease is as of **[REDACTED]**. The Lease term shall commence on the date [Lessee commissions its Solar Facility at the Solar Site](the "Commencement Date") and ends on the 25th anniversary of such Commencement Date. Lessee has three options to extend this Lease, each option being for a term of ten (10) years. [The Lease grants Lessee an [right of first refusal] to purchase Lessor's Property.]

The Lease provides Lessee the right to assign or transfer its rights under the Lease, in whole or in part, to any person or any business entity at any time, subject to the assignee assuming all of Lessee's obligations thereunder. After delivery by Lessee to Lessor of an instrument of assumption by an assignee wherein such assignee assumes all of the obligations of Lessee under the Lease, Lessee will thereafter be relieved of all liabilities and obligations pursuant to the Lease.

Upon the cancellation, termination or expiration of the Lease, Lessee will make, execute and deliver to Lessor an instrument releasing this Memorandum/Notice of Lease, which instrument shall in form and substance be satisfactory to Lessor and shall be in recordable form.

Lessee does hereby make, constitute and appoint Lessor Lessee's true and lawful agent for the limited, specific and exclusive purpose of executing, delivering and recording a termination of this Memorandum/Notice of Lease in the event that Lessee has not signed and returned to Lessor, within ten (10) business days after the cancellation, termination or expiration of the Lease in accordance with the terms thereof, a signed termination of this Memorandum/Notice of Lease. This agent is coupled with an interest and shall be irrevocable until this Memorandum/Notice of Lease has been validly released of record. The agency relationship set forth in this paragraph is hereby expressly limited to the specific matters and rights set forth in such paragraph.

This Memorandum/Notice of Lease may be executed in counterparts, each of which, when executed, shall be deemed an original instrument, but all of which taken together shall constitute one and the same agreement. Capitalized terms not otherwise defined herein shall have the respective meanings ascribed to such terms in the Lease.

The location of the original lease is on file and available for inspection during usual business hours at the offices of Tenant.

IN WITNESS WHEREOF, the parties have executed the Memorandum/Notice of Lease as of the day and year first above written.

IN PRESENCE OF:

**(NAME OF LANDOWNER)**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Duly Authorized Agent

**Southshire Community Solar LLC**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Duly Authorized Agent

STATE OF VERMONT  
COUNTY OF BENNINGTON, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 2015, personally appeared \_\_\_\_\_, Duly Authorized Agent of **(NAME OF LANDOWNER)** to me known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of **(NAME OF LANDOWNER)**

Before me, \_\_\_\_\_  
Notary Public

Printed Name: \_\_\_\_\_

Notary commission issued in \_\_\_\_\_ County  
My commission expires: \_\_\_\_\_ (Date)

STATE OF VERMONT  
COUNTY OF BENNINGTON, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared \_\_\_\_\_ Duly Authorized Agent of **Southshire Community Solar LLC** to me known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and deed and the free act and deed of **Southshire Community Solar LLC**.

Before me, \_\_\_\_\_  
Notary Public

Printed Name: \_\_\_\_\_

Notary commission issued in \_\_\_\_\_ County  
My commission expires: \_\_\_\_\_ (Date)