CREDIT AGREEMENT

Dated as of [_____], 2024

between

CITY OF NEW HAVEN,
as Borrower

AND

CONNECTICUT GREEN BANK,
as Lender

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CREDIT AGREEMENT

This CREDIT AGREEMENT is entered into as of [______], 2024, between CITY OF NEW HAVEN, a municipal corporation existing under the laws of the State of Connecticut (the "Borrower") and CONNECTICUT GREEN BANK, a quasi-public agency of the State of Connecticut (the "Lender").

PRELIMINARY STATEMENT

Borrower has requested that (a) Lender provide a construction bridge loan in an aggregate principal amount of $7,114,410.00, and (b) Lender is willing to do so on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I. DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms**.** As used in this Agreement, the following terms shall have the meanings set forth below:

"Act" has the meaning specified in Section 9.16.

"Advance" means an advance of funds by Lender to Borrower pursuant to Article II.

"Advance Request" means a certificate, in substantially the form of Exhibit E, properly completed and signed by Borrower requesting an Advance.

"Affiliate" means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Agreement" means this Credit Agreement, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Assignee Group" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

"Assignment and Assumption" means an assignment and assumption entered into by Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 9.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit F or any other form (including electronic documentation generated by an electronic platform) approved by the Administrative Agent.

"Availability Period" means the period where the Borrower may request Advances from the Lender up to the amount of the Commitment, commencing upon the day whereupon Section 4.01(f) is satisfied and ending on the sooner to occur of (a) the first Business Day following the 3-year anniversary of the first Advance and (b) December 31, 2029. Subject to Borrower and Lender's mutual agreement, the Availability Period may be extended by two (2) one-year options.

"Borrower" has the meaning specified in the introductory paragraph hereto.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the State of Connecticut.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any Law, rule, regulation or treaty, (b) any change in any Law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority.

"Change of Control" means any reorganization, recapitalization, consolidation or merger (or similar transaction or series of related transactions) involving Borrower, or any sale, transfer, assignment or exchange of the Project or Facility.

"Closing Date" means the date on which all conditions precedent in Section 4.01 of this Agreement have been met and the Lender funds the Loan.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral" means all of the "Collateral", and "Accounts" referred to in the Collateral Documents and all of the other property that is or is intended under the terms of this Agreement, the Collateral Documents or the other Loan Documents to be subject to Liens in favor of the Lender, including, without limitation, such property that is material to the development and construction of the Project and operation, maintenance or use of the Facility; provided that there shall be excluded from the Collateral (a) any account, instrument, chattel paper or other obligation or property of any kind due from, owed by, or belonging to a Sanctioned Person and (b) any lease in which the lessee is a Sanctioned Person, such exclusion to apply in each case only for so long as such Person is a Sanctioned Person.

"Collateral Documents" means, collectively, the Security Agreement, the Deposit Account Security Agreement, Collateral Assignment of Permits, Licenses, Approvals and Contracts, and each of the other agreements, pledges, collateral assignments, instruments or documents that creates or purports to create a Lien in favor of the Lender, and all control agreements and UCC or other financing statements, instruments of perfection and other filings, recordings and registrations required to be filed or made in respect of any of the foregoing, in each case as the same may be amended, restated, amended and restated, supplemented or otherwise modified form time to time.

"Commercial Operation Date" means the date that is the "Commercial Operation Date" under and as defined in the Power Purchase Agreement.

"Commitment" means, as to Lender, its obligation to make the Loan on the Closing Date to Borrower, in an aggregate principal amount not to exceed the Aggregate Commitment.

"Construction Documents" shall mean the EPC Agreements and any other material architect, engineer or construction agreement.

"Construction Budget" shall mean a budget (as the same may be amended by the Borrower from time to time pursuant to the terms hereof) setting forth all expected Project costs for the Project through the Final Completion.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"CT PURA" means the Connecticut Public Utilities Regulatory Authority.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"Default Rate" means an interest rate equal to (i) the interest rate otherwise applicable hereunder plus (ii) five percent (5.0%) per annum.

"Deposit Account Control Agreement" means, that certain Deposit Account Control Agreement to be entered into among Borrower, Lender and the depository bank relating to funds received by the Borrower under the Grant, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Deposit Account Security Agreement" means that certain Deposit Account Security and Pledge Agreement to be dated as of the Closing Date, made by Borrower in favor of the Lender, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Designated Jurisdiction" means any country or territory to the extent that such country or territory is the subject of any Sanction.

"Disposition" or "Dispose" means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

"Dollar" and "$" mean lawful money of the United States.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 9.06(b)(iii), and (v) (subject to such consents, if any, as may be required under Section 9.06(b)(iii)).

"Environmental Laws" means any and all Federal, state, local, and foreign statutes, Laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to Hazardous Materials, hazardous substances or wastes, air emissions and discharges to waste or public systems.

"Environmental Liability" means any liability or obligation, contingent or otherwise (including any liability or obligation for damages, costs of environmental remediation, fines, penalties or indemnities), of Borrower directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"EPA" means U.S. Environmental Protection Agency.

"EPC Agreements" means, collectively, (i) that certain [Fixed Price] Engineering, Procurement and Construction Agreement as to Union Station and (ii) that certain [Fixed Price] Engineering, Procurement and Construction Agreement as to the Housing Development, in each case as the same may be amended, restated, amended and restated, supplemented or otherwise modified form time to time.

"Event of Default" has the meaning specified in Section 8.01.

"Excluded Taxes" means, with respect to the Lender, or any other recipient of any payment to be made by or on account of any obligation of Borrower hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which such recipient is organized or in which its principal office is located or, in the case of Lender, in which its applicable Lending Office is located, (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which Borrower is located, (c) any backup withholding tax that is required by the Code to be withheld from amounts payable to Lender that has failed to comply with clause (A) of Section 3.01(e)(ii).

"Facility" means the geothermal network to be developed and constructed at and serving Union Station and the Housing Development.

"Facility Documents" means, collectively, (i) the Power Purchase Agreement, (ii) the Lease, [(iii) the Interconnection Agreement], (iv) the O&M Agreement, and (v) the EPC Agreements.

"Final Completion" shall mean the Project has achieved ["Final Completion" under and as defined in the applicable EPC Agreement.][1]

"FERC" means the Federal Energy Regulatory Commission.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the

[1] Note to Draft: To be reviewed upon receipt of form of EPC Agreement.

United States, that are applicable to the circumstances as of the date of determination, consistently applied, in each case, as applicable for municipalities.

"Governmental Authority" means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Grant" means the [grant] in the amount(s) of [$____________][2] provided by the EPA to the Borrower.

"Grant Documents" means documents evidencing the Grant and use of the Grant funds for the Project.

"Guarantee" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Housing Development" means those certain mixed-income housing developments located in close proximity to Union Station which the Project will serve.

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[2] Note to Draft: Borrower to provide.

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;

(c) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than 60 days after the date on which such trade account payable was created);

(d) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse; and

(e) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Indemnitee" has the meaning specified in Section 9.04(b).

"Independent Engineer" means [____________][3].

["Interconnection Agreement" means, collectively, all interconnection agreements entered into by or among Borrower and any other Person(s) relating to the Facility, as each may be amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms hereof.][4]

"IP Rights" has the meaning specified in Section 5.15.

"IRS" means the United States Internal Revenue Service.

"ITC" means Investment Tax Credit.

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[3] Note to Draft: To be determined by Lender.

[4] Note to Draft: To be determined if applicable.

"Laws" means, collectively, all international, foreign, Federal, state and local laws, statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"Lease" means that certain Ground Lease Agreement dated as of [__________], between Borrower, as Tenant, [__________], as Landlord, as amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms hereof[5].

"Lender" has the meaning specified in the introductory paragraph hereto.

"Lending Office" means, as to Lender, the office or offices of Lender described on Schedule 9.02, or such other office or offices as Lender may from time to time notify Borrower.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

"Lien Waiver" means an agreement, in form and substance satisfactory to Lender, by which (a) for any Collateral located on leased premises, the lessor waives or subordinates any Lien it may have on the Collateral, and agrees to permit Lender to enter upon the premises and remove the Collateral or to use the premises to store or dispose of the Collateral; (b) for any Collateral held by a warehouseman, processor, shipper, customs broker or freight forwarder, such Person waives or subordinates any Lien it may have on the Collateral, agrees to hold any documents in its possession relating to the Collateral as agent for Lender, and agrees to deliver the Collateral to Lender upon request; (c) for any Collateral held by a repairman, mechanic or bailee, such Person acknowledges Lender's Lien, waives or subordinates any Lien it may have on the Collateral, and agrees to deliver the Collateral to Lender upon request; (d) for any Collateral subject to a licensor's intellectual property rights, the licensor grants to Lender the right, vis-à-vis such licensor, to enforce Lender's Liens with respect to the Collateral, including the right to dispose of it with the benefit of the intellectual property, whether or not a default exists under any applicable license; and (e) for any contractor, subcontractor, materialman, laborer or other Person that performed work on or supplied goods to the Facility, a full and complete waiver of all Liens and other claims such Person has on or with respect to the Facility.

"Loan" means the extension of credit by the Lender to the Borrower under Article II.

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[5] Note to Draft: To be updated upon receipt of copy of Ground Lease. To be determined if any collateral documents shall be required in connection with the Ground Lease. If so, Agreement to be updated to provide for same.

"Loan Documents" means this Agreement, each Note, the Collateral Documents, [the Undertaking Letter,][6] each Deposit Account Control Agreement and all other documents, agreements, certificates and instruments now or hereafter entered into in connection with the Loan or any modification, extension or renewal thereof, as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), prospects or condition (financial or otherwise) of the Project and Facility; (b) a material impairment of the ability of Borrower to complete the Project; (c) a material impairment of the ability of Borrower to perform its obligations under any Loan Document to which it is a party; or (d) a material adverse effect upon the legality, validity, binding effect or enforceability against Borrower of any Loan Document.

"Maturity Date" means the sooner of (a) Borrower's receipt of ITC and (b) December 31, 2031.

"Note" means each promissory note made by Borrower in favor of Lender evidencing the Loan made by Lender, substantially in the form of Exhibit A.

"Obligations" means (a) all advances to, and debts, Indebtedness, liabilities, obligations, covenants and duties of, the Borrower arising under any Loan Document or otherwise with respect to the Loan and (b) all costs and expenses incurred in connection with enforcement and collection of the foregoing, including the fees, charges and disbursements of counsel, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, expenses and fees that accrue after the commencement by or against the Borrower or any Affiliate thereof pursuant to any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, expenses and fees are allowed claims in such proceeding.

"OFAC" means the U.S. Department of Treasury's Office of Foreign Asset Control.

"Organization Documents" means, (a) with respect to any quasi-public agency, the enabling statute (or other Laws enabling such quasi-public agency) and any bylaws or comparable constitutive or governing documents of such quasi-public agency and (b) with respect to the Borrower, the enabling statute (or other Laws enabling such municipal corporation) and any constitutive or governing documents of such municipal corporation.

"Other Taxes" means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

"O&M Agreements" means, that (i) certain Operations & Maintenance Agreement as to the Union Station and (ii) certain Operations & Maintenance Agreement as to Housing Development as either of the

[6] Note to Draft: To be determined if applicable.

same may be as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Outside Date" means [December 31, 2029][7].

"Payment Date" means the first Business Day of each month where there are Advances outstanding from the prior month.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority, quasi-public agency or other entity.

"Power Purchase Agreements" means (i) that certain Power Purchase Agreement as to the Union Station and (ii) that certain Power Purchase Agreement as to Housing Development as either of the same may be as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Power Purchasers" means, collectively, [Union Station and the Housing Authority for the benefit of the Housing Development][8].

"Project" means the development and construction of the Facility.

"Project Schedule" shall mean a schedule setting forth the expected schedule and milestones for construction of the Project.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees and advisors of such Person and of such Person's Affiliates.

"Resolutions" has the meaning specified in Section 5.01.

"Responsible Officer" means the applicable elected or appointed official of the Borrower with authority to act on behalf of the Borrower as to the Loan and under and pursuant to the Loan Documents. Any document delivered hereunder that is signed by a Responsible Officer of the Borrower shall be conclusively presumed to have been authorized by all necessary action on the part of the Borrower and such Responsible Officer shall be conclusively presumed to have acted on behalf of the Borrower.

"Sale and Leaseback Transaction" means, with respect to Borrower, any arrangement, directly or indirectly, with any Person whereby Borrower shall sell or transfer any property used or useful in the Project or development, construction, operation or maintenance of the Facility, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred.

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[7] Note to Draft: To be confirmed.

[8] Note to Draft: To be confirmed.

“Sanction(s)” means any international economic sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority.

“Sanctioned Country” means a country subject to a sanctions program identified on the list maintained by OFAC and published from time to time.

“Sanctioned Person” means (a) a Person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC and published from time to time, or (b) (i) an agency of the government of a Sanctioned Country, (ii) an organization controlled by a Sanctioned Country, or (iii) a Person resident in a Sanctioned Country, to the extent subject to a sanctions program administered by OFAC.

“Security Agreement” means that certain Security Agreement to be dated as of the Closing Date, made by Borrower in favor of Lender, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Supplemental Terms” means the supplemental terms attached hereto as Exhibit D and made part hereof.

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Threshold Amount” means [$250,000][9].

“UCC” means the Uniform Commercial Code as in effect in the State of Connecticut; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of Connecticut, “UCC” means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

“Union Station” means Union Station located at 50 Union Avenue, New Haven, Connecticut.

“United States” and “U.S.” mean the United States of America.

1.02 Other Interpretive Provisions**.** With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to

[9] Note to Draft: To be confirmed.

any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, amendments and restatements, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "hereto," "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

1.03 Accounting Terms. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time and as applicable to such Person utilizing same, except as otherwise specifically prescribed herein. If at any time any change in GAAP would affect the computation of any financial requirement set forth in any Loan Document, and either the Borrower or the Lender shall so request, the Lender and the Borrower shall negotiate in good faith to amend such requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of Lender); provided, that, until so amended, (i) such requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) Borrower shall provide to the Lender financial documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such requirement made before and after giving effect to such change in GAAP.

1.04 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

ARTICLE II. THE COMMITMENTS AND THE LOAN

2.01 The Loan and Availability. Subject to the terms and conditions of this Agreement, Lender agrees to make up to [__][10] Advances to Borrower from time to time during the Availability Period in an aggregate principal amount at any time outstanding up to but not exceeding the Commitment. Lender shall

[10] Note to Draft: To determined.

have no obligation to make any Advance if an Event of Default has occurred and is continuing or if any other condition contained herein is not satisfied. Borrower may not reborrow any Advance hereunder if repaid.

2.02 Requests for Advances**.** Borrower shall be permitted to make not more than one Advance Request per month (including as to the initial Advance). Each Advance must be for a minimum of $100,000. In the Lender's discretion, Advances may also be subject to the meeting of milestones under the Project Schedule. Borrower shall give Lender notice of each requested Advance by delivery to Lender of an Advance Request executed by a Responsible Officer, properly completed and containing the information required therein. Advances are subject to the requirements of Section 4.02 and Section 4.03, as applicable. Assuming that each Advance Request Form is in proper form, if Lender receives an Advance Request prior to 12:00 p.m. on any Business Day, Lender will make the requested Advance on the same Business Day, and if Lender receives an Advance Request at or after 12:00 p.m., Lender will make the requested Advance no later than the next Business Day. Advance Requests may be delivered by e-mail, scanned PDF, or any other electronic method acceptable to Lender.

2.03 Prepayments. Borrower may, upon notice to the Lender, at any time or from time to time voluntarily prepay the Loan in whole or in part without any charge, cost, or fee. If such notice is given by Borrower, Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment shall be accompanied by all accrued interest on the amount prepaid. Prepayment of the Loan shall be applied to the remaining installments of principal due on the Loan in the inverse order of maturity.

2.04 Repayment of the Loan**.** Borrower shall repay the unpaid principal amounts of all Advances on the earlier of (a) the Maturity Date or (b) such other dates on which the Advances are or may be required to be paid pursuant to this Agreement.

2.05 Interest**.**

(a) Subject to the provisions of subsection (b) below, the Loan shall bear interest at a rate per annum equal to [3% per annum, assuming Greenhouse Gas Reduction Funds (GGRF) can be used, or 4.25% per annum if GGRF cannot or will not be used for the Facility].[11] [The interest rate is subject to the following: GGRF boilerplate language as to federal requirements to be forthcoming, if applicable.][12]

(b) (i) If any amount of principal of the Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at an interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any amount (other than principal of the Loan) payable by Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Lender (or automatically without any such request if an Event of Default under Section 8.01(f) has occurred and is

[11] Note to Draft: To be determined.

[12] Note to Draft: To be determined.

continuing), such amount shall thereafter bear interest at an interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Upon the request of the Lender (or automatically without any such request if an Event of Default under Section 8.01(f) has occurred and is continuing), while any Event of Default exists (other than as set forth in clause (b)(i) and (ii) above), Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at an interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iv) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Accrued and unpaid interest on the Advances shall be due and payable in arrears on each Payment Date until the Maturity Date and at such other times as may be specified herein.[13] Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

2.06 Repayment of the Loan at Maturity**.** On the Maturity Date, Borrower shall repay all of the Obligations in full in cash.

2.07 Fees and Charges**.** In addition to the other fees described in this Agreement:

(a) Borrower shall pay a one-time facility fee in the amount of $71,144, which is not subject to offset or reduction in any form and shall be due and payable regardless of whether any or all of the full Commitment is advanced or any prepayment is made. The facility fee shall be due and payable at the Borrower's option either (a) on the Closing Date or (b) deferred and subject to interest pursuant to the rate of interest in Section 2.05(a) and, as applicable, Section 2.05(b) on the Maturity Date.

(b) Borrower shall pay to the Lender, a late charge equal to five percent (5.0%) of the amount of any payment due hereunder which is not received by the Lender within ten (10) days from and after the date in which it is due.

2.08 Computation of Interest and Fees**.** All calculations of interest shall be made on the basis of a year of 360 days, and actual days elapsed. Interest shall accrue on any Advance for the day on which the Advance is made, and shall not accrue on the Advance or Loan, or any portion thereof, for the day on which the Advance or Loan or such portion is paid. Each determination by the Lender of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

2.09 Evidence of Debt**.** The Loan shall be evidenced by one or more accounts or records maintained by Lender in the ordinary course of business. The accounts or records maintained by the Lender shall be conclusive absent manifest error of the amount of the Loan made by Lender to Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of Borrower hereunder to pay any amount owing with respect to the Obligations. Borrower shall execute and deliver to Lender a Note on the Closing Date, which shall evidence

[13] Note to Draft: To be confirmed that monthly interest only payments will be made.

Lender's Loan in addition to such accounts or records. Lender may attach schedules to its Note and endorse thereon the date, amount and maturity of its Loan and payments with respect thereto.

2.10 Payments Generally; Funding Source**.**

(a) General. All payments to be made by Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by Borrower hereunder shall be made to the Lender at the Lending Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. All payments received by the Lender after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) Funding Source. Nothing herein shall be deemed to obligate Lender to obtain the funds for the Loan in any particular place or manner or to constitute a representation by Lender that it has obtained or will obtain the funds for the Loan in any particular place or manner.

ARTICLE III. TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes. (i) Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall to the extent permitted by applicable Laws be made free and clear of and without reduction or withholding for any Taxes. If, however, any applicable Laws (as determined in the good faith discretion of the Lender) require the deduction or withholding of any Tax from any such payment by the Lender or the Borrower, then the Lender or the Borrower, as the case may be, shall be entitled to make such withholding or deduction, upon the basis of information and documentation to be delivered pursuant to subsection (e) below.

(ii) If the Borrower or the Lender shall be required by the Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding taxes, from any payment, then (A) the Lender shall withhold or make such deductions as are determined by the Lender to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Lender shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the Borrower shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the Lender receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable Law, or at the option of the Lender timely reimburse it for the payment of, any Other Taxes.

(c) Tax Indemnifications. (i) Without limiting the provisions of subsection (a) or (b) above, the Borrower shall indemnify the Lender, and shall make payment in respect thereof within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified

Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by Lender or required to be withheld or deducted from a payment to Lender, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority.

(d) Evidence of Payments. Upon request by Borrower or the Lender, as the case may be, after any payment of Taxes by Borrower or by the Lender to a Governmental Authority as provided in this Section 3.01, Borrower shall deliver to the Lender or the Lender shall deliver to Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to Borrower or the Lender, as the case may be.

(e) Tax Documentation. (i) Lender shall deliver to Borrower or Borrower shall deliver to Lender at the time or times prescribed by applicable Laws or when reasonably requested by Borrower or Lender, as applicable, such properly completed and executed documentation prescribed by applicable Laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit Borrower or Lender to determine (A) whether or not payments made hereunder or under any other Loan Document are subject to Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) Lender's or Borrower's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of all payments to be made to Lender by Borrower pursuant to this Agreement or otherwise to establish Lender's status for withholding tax in the applicable jurisdiction.

(i) Lender or Borrower shall promptly (A) notify the other party of any change in circumstances which would modify or render invalid any claimed exemption or reduction as to Taxes, and (B) take such steps as shall not be materially disadvantageous to it, in the reasonable judgment of Lender, and as may be reasonably necessary to avoid any requirement of applicable Laws of any jurisdiction that Borrower make any withholding or deduction for taxes from amounts payable to Lender.

3.02 Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, Lender; or

(ii) subject Lender to any tax of any kind whatsoever with respect to this Agreement, or change the basis of taxation of payments to Lender in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.01 and the imposition of, or any change in the rate of, any Excluded Tax payable by Lender);

and the result of any of the foregoing shall be to increase the cost to Lender of making or maintaining any Loan, or to reduce the amount of any sum received or receivable by Lender hereunder (whether of principal, interest or any other amount) then, upon request of Lender, Borrower will pay to Lender such additional amount or amounts as will compensate Lender, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If Lender determines that any Change in Law affecting Lender or any Lending Office of Lender or Lender's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on Lender's capital or on the capital of Lender's holding company, if any, as a consequence of this Agreement, the Commitments of Lender or the Loan made by Lender, to a level below that which Lender or Lender's holding company could have achieved but for such Change in Law (taking into consideration Lender's policies and the policies of Lender's holding company with respect to capital adequacy), then from time to time upon request by delivery of a certificate pursuant to subsection (c) of this Section 3.04, Borrower will pay to Lender such additional amount or amounts as will compensate Lender or Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of Lender setting forth the amount or amounts necessary to compensate Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to Borrower shall be conclusive absent manifest error. Borrower shall pay Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of Lender to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of Lender's right to demand such compensation, provided that Borrower shall not be required to compensate Lender pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that Lender notifies Borrower of the Change in Law giving rise to such increased costs or reductions and of Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine (9) month period referred to above shall be extended to include the period of retroactive effect thereof)

3.03 Survival**.** Each party's obligations under this Article III shall survive termination of the Commitments and repayment, any assignment of rights by, or the replacement of, Lender, and repayment, satisfaction or discharge of all other Obligations hereunder.

ARTICLE IV. CONDITIONS PRECEDENT TO LOAN

4.01 Conditions of Closing**.** The obligation of the Lender to execute this Agreement is subject to satisfaction of the following conditions precedent:

(a) The Lender's receipt of the following, each of which (to the extent applicable) shall be (1) originals or telecopies (followed promptly by originals) unless otherwise specified, (2) duly executed by a Responsible Officer of the Borrower, (3) dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and (4) in form and substance satisfactory to the Lender:

(i) executed counterparts of this Agreement, Collateral Documents in the forms attached as Exhibit B hereto, the Environmental Indemnity in the form attached hereto as Exhibit C hereto and all other Loan Documents to be executed on the Closing Date, sufficient in number for distribution to the Lender and Borrower;

(ii) such certificates of resolutions or other action as the Lender may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which the Borrower is a party and that they are duly authorized to execute and deliver, on behalf of the Borrower, this Agreement, the Notes and the other Loan Documents;

(iii) a favorable opinion of [Borrower's Counsel][14], counsel to the Borrower, acceptable to the Lender and addressed to the Lender and which may be relied upon by its successors and assigns, as to matters concerning the Borrower and the Loan Documents as the Lender may request;

(iv) a favorable opinion of [Borrower's Accountant][15], certified public accountant to the Borrower, stating that a geothermal project similar to the Project would be eligible under the IRS guidelines for ITC and that ITC dollars could be utilized to repay a loan similar to the Loan;

(v) evidence that all insurance required to be maintained pursuant to the Loan Documents has been obtained and is in effect, together with endorsements to such insurance policies naming Lender as additional insured, mortgagee, loss payee and/or lender's loss payable, as applicable;

(vi) Uniform Commercial Code, state and federal tax lien, judgment lien, litigation and bankruptcy searches for Borrower, in such locations as may be requested by the Lender;

(vii) releases and/or termination statements for all Liens on Borrower relating to or affecting the Project or the Collateral as of the Closing Date;

(viii) copies of all of the Grant Documents;

(ix) such other assurances, certificates, documents, consents, reliance letters or opinions as the Lender may require.

(b) Any fees required to be paid on or before the Closing Date shall have been paid.

(c) Unless waived by the Lender, Borrower shall have paid all reasonable fees, charges and disbursements of counsel to the Lender to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between Borrower and the Lender).

(d) The representations and warranties of the Borrower contained herein and in the other Loan Documents shall be true and correct on and as of the Closing Date.

(e) No Default or Event of Default shall exist, and no Default or Event of Default would result from the making or funding of the Loan or from the application of the proceeds thereof.

(f) No event has occurred or circumstance exists that has or could reasonably be expected to have a Material Adverse Effect.

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[14] Note to Draft: To be provided by Borrower.

[15] Note to Draft: To be provided by Borrower.

(g) The Borrower shall not have instituted or consented to the institution of any proceeding under any Debtor Relief Law; or made an assignment for the benefit of creditors; or applied for or consented to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property, and no receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer shall have been so appointed without the application or consent of such Person; no proceeding under any Debtor Relief Law relating to such Person or to all or any material part of its property shall have been instituted without the consent of such Person.

(h) The Lender's receipt of the financial model that is a projection of operating results for the Facility, showing the Borrower's good faith estimates, as of the Closing Date, of revenue, operating and maintenance expenses and sources and uses of revenues with respect to the Facility over the forecast period and containing assumptions satisfactory to the Lender (in consultation with the Independent Engineer).

(i) The Lender's receipt of the anticipated Construction Budget and Project Schedule satisfactory to the Lender (in consultation with the Independent Engineer).

(j) The Lender's receipt of an engineering report for the Project and Facility by an engineering firm acceptable to Lender, providing detail on the quality of the construction, the ability of the geothermal network to produce the level of thermal energy they are rated for, and the adequacy of the proposed O&M Reserve (including confirmation of the estimated [X][16] MMBTUs of clean heat) (the "Engineering Report") satisfactory to the Lender (in consultation with the Independent Engineer) and a reliance letter for the Engineering Report in favor of the Lender.

4.02 Conditions to Initial Funding**.** The obligation of the Lender to make the first Advance during the Availability Period is subject to satisfaction of the following conditions precedent:

(a) The Lender shall have received an Advance Request pursuant to Section 2.02 with any such Advance meeting the requirements thereof.

(b) The representations and warranties of the Borrower contained herein and in the other Loan Documents shall be true and correct on and as of the date of the Advance Request and the date of the making or issuance of the Advance with the same force and effect as if made on and as of such date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date.

(c) No Default or Event of Default shall exist, and no Default or Event of Default would result from the making or funding of the Advance or from the application of the proceeds thereof.

(d) No event has occurred or circumstance exists that has or could reasonably be expected to have a Material Adverse Effect.

(e) The Borrower shall not have instituted or consented to the institution of any proceeding under any Debtor Relief Law; or made an assignment for the benefit of creditors; or applied for or consented to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property, and no receiver, trustee, custodian, conservator,

[16] Note to Draft: Under review.

liquidator, rehabilitator or similar officer shall have been so appointed without the application or consent of such Person; no proceeding under any Debtor Relief Law relating to such Person or to all or any material part of its property shall have been instituted without the consent of such Person.

(f) The Lender shall have received a favorable opinion of [Borrower's Accountant][17], certified public accountant to the Borrower, as to the Borrower's and the Project's eligibility under the IRS guidelines for ITC and for ITC dollars to be utilized to repay the Loan.

(g) The Lender shall have received satisfactory evidence that 80% of the Grant has been utilized for the Project.

(h) The Lender shall have received a bring-down of the Independent Engineer's Report delivered pursuant to Section 4.01(j) and a construction supplement to the Independent Engineer's Report, accompanied by a reliance letter in form and substance reasonably acceptable to the Lender and duly executed by the Independent Engineer.

(i) If requested by Lender, Lender shall have received an update of the financial model provided pursuant to Section 4.01(h) reasonably satisfactory to the Lender (in consultation with the Independent Engineer).

(j) If requested by Lender, Lender shall have received a status update as to the Construction Budget and Project Schedule reasonably satisfactory to the Lender (in consultation with the Independent Engineer).

(k) Lender shall have received copies of all Construction Documents and the Lender shall have approved each contractor thereunder after a determination of its creditworthiness and experience. Each such counterparty shall have executed any delivered to the Lender any required consent, estoppel or recognition agreement as to assignment of the applicable Construction Documents as the Lender may require.

(l) To the extent available at the time of such Advance or at the period of the Project Schedule when such documents would be applicable, the Lender shall have received copies of all Facility Documents in forms and with counterparties acceptable to Lender, including, that (A) the operation and maintenance service provider is a qualified operator for the Facility or otherwise reasonably acceptable to the Lender and (B) any such agreement is on terms that are, when taken as a whole, no less favorable to the Borrower than then-prevailing market terms for third-party agreements for geothermal energy facilities similar to the Facility. Each such counterparty shall have executed any delivered to the Lender any required consent, estoppel or recognition agreement to assignment of the applicable Facility Documents as the Lender may require.

(m) The Lender shall have received copies of all permits and approvals for the Project, which are, in light of the status of the acquisition, development, construction and operation of the Project as of such date, required to have been obtained and which shall be in full force and effect and the Borrower shall be is in material compliance with each such permit and approval.

[17] Note to Draft: To be provided by Borrower.

(n) All work that has been done on the Project has been done in a good and workmanlike manner and in accordance with the Construction Documents and prudent industry practice. There has not been filed against, or served upon the Borrower or the Project (or any part thereof) notice of or application for any Lien, claim of Lien or attachment upon or claim affecting the right to receive payment of any of the moneys payable to Borrower which has not been released, other than Permitted Liens. The Lender shall have received evidence reasonably satisfactory to Lender that all work in respect of the Project then requiring inspection by any Governmental Authority having jurisdiction has been duly inspected and approved by such Governmental Authority and that any certificates or notices then required to be issued in connection therewith have been issued by such Governmental Authority.

(o) The Lender shall have received any Lien Waivers required.

(p) No action, suit, administrative proceeding or investigation shall have been instituted or threatened in writing against Borrower or the Project, which in each such case could reasonably be expected to result in a Material Adverse Effect. There shall have been no claim of violation or violation of (or any written notice thereof) any Environmental Law, which could reasonably be expected to result in a Material Adverse Effect.

(q) No Casualty Event that would be reasonably expected to materially impair the construction or operation of the Project shall have occurred and be continuing.

(r) Any fees required to be paid on or before the Advance shall have been paid.

(s) Such other assurances, certificates, documents, consents, reliance letters or opinions as the Lender may require.

4.03 Conditions to Future Advances. The obligation of the Lender to make each future Advance during the Availability Period is subject to satisfaction of the following conditions precedent:

(a) The Lender shall have received an Advance Request pursuant to Section 2.02 with any such Advance meeting the requirements thereof.

(b) The representations and warranties of the Borrower contained herein and in the other Loan Documents shall be true and correct on and as of the date of the Advance Request and the date of the making or issuance of the Advance with the same force and effect as if made on and as of such date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date.

(c) No Default or Event of Default shall exist, and no Default or Event of Default would result from the making or funding of the Advance or from the application of the proceeds thereof.

(d) No event has occurred or circumstance exists that has or could reasonably be expected to have a Material Adverse Effect.

(e) The Borrower shall not have instituted or consented to the institution of any proceeding under any Debtor Relief Law; or made an assignment for the benefit of creditors; or applied for or consented to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property, and no receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer shall have been so appointed without the application or consent of such Person; no proceeding under any Debtor Relief Law relating to such Person or to all or any material part of its property shall have been instituted without the consent of such Person.

(f) The Lender shall have received a bring-down of the Independent Engineer's Report delivered pursuant to Section 4.01(j) and a construction supplement to the Independent Engineer's Report, accompanied by a reliance letter in form and substance reasonably acceptable to the Lender and duly executed by the Independent Engineer.

(g) If requested by Lender, Lender shall have received an update of the financial model provided pursuant to Section 4.01(h) reasonably satisfactory to the Lender (in consultation with the Independent Engineer).

(h) If requested by Lender, Lender shall have received a status update as to the Construction Budget and Project Schedule reasonably satisfactory to the Lender (in consultation with the Independent Engineer).

(i) To the extent available at the time of such Advance or at the period of the Project Schedule when such documents would be applicable, the Lender shall have received copies of all Facility Documents in forms and with counterparties acceptable to Lender, including, that (A) the operation and maintenance service provider is a qualified operator for the Facility or otherwise reasonably acceptable to the Lender and (B) any such agreement is on terms that are, when taken as a whole, no less favorable to the Borrower than then-prevailing market terms for third-party agreements for geothermal energy facilities similar to the Facility. Each such counterparty shall have executed any delivered to the Lender any required consent, estoppel or recognition agreement to assignment of the applicable Facility Documents as the Lender may require.

(j) The Lender shall have received copies of all permits and approvals for the Project, which are, in light of the status of the acquisition, development, construction and operation of the Project as of such date, required to have been obtained and which shall be in full force and effect and the Borrower shall be is in material compliance with each such permit and approval.

(k) All work that has been done on the Project has been done in a good and workmanlike manner and in accordance with the Construction Documents and prudent industry practice. There has not been filed against, or served upon the Borrower or the Project (or any part thereof) notice of or application for any Lien, claim of Lien or attachment upon or claim affecting the right to receive payment of any of the moneys payable to Borrower which has not been released, other than Permitted Liens. The Lender shall have received evidence reasonably satisfactory to Lender that all work in respect of the Project then requiring inspection by any Governmental Authority having jurisdiction has been duly inspected and approved by such Governmental Authority and that any certificates or notices then required to be issued in connection therewith have been issued by such Governmental Authority.

(l) The Lender shall have received any Lien Waivers required.

(m) No action, suit, administrative proceeding or investigation shall have been instituted or threatened in writing against Borrower or the Project, which in each such case could reasonably be expected to result in a Material Adverse Effect. There shall have been no claim of violation or violation of (or any written notice thereof) any Environmental Law, which could reasonably be expected to result in a Material Adverse Effect.

(n) No Casualty Event that would be reasonably expected to materially impair the construction or operation of the Project shall have occurred and be continuing.

(o) Any fees required to be paid on or before the Advance shall have been paid.

(p) Such other assurances, certificates, documents, consents, reliance letters or opinions as the Lender may require.

4.04 Waiver of Conditions Precedent. If Lender funds any Advance or grants any other accommodation when any conditions precedent are not satisfied (regardless of whether the lack of satisfaction was known or unknown at the time), it shall not operate as a waiver of (a) the right of Lender to insist upon satisfaction of all conditions precedent with respect to any subsequent funding, issuance, creation or grant; or (b) any Default or Event of Default due to such failure of conditions or otherwise.**REPRESENTATIONS AND WARRANTIES**

Borrower represents and warrants to the Lender that:

5.01 Existence, Qualification and Power**.** The Borrower (a) validly and legally exists as a municipal corporation of the State of Connecticut constituting a body politic thereof, and (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business with respect to the Project and Facility and (ii) execute, deliver and perform its obligations under the Project, Facility and Loan Documents. In furtherance of the foregoing, the Borrower has complied or will comply on the Closing Date, with Chapter 109 and all other applicable provisions of the Connecticut General Statutes (collectively, the "CT Acts"), and the Charter of the Borrower and proceedings of the [Board of Aldermen][18] acting pursuant thereto, authorizing the Borrower's (a) development and construction of the Project, (b) operation of the Facility, and (c) entry into this Agreement and each Loan Document, obtaining of the Loan, granting the Collateral pursuant thereto, utilizing the Loan proceeds for the Project and its (hereinafter called the "Resolutions"), in all respects related to the transactions contemplated hereby. The [Board of Aldermen] has full legal right, power and authority to adopt the Resolutions, and the Responsible Officers have full legal right, power and authority to approve and authorize the execution of this Agreement and each of the other Loan Documents and to use the proceeds of the Loan as provided herein and to carry out and consummate all other transactions contemplated by each of the aforesaid documents.

5.02 Authorization; No Contravention**.** The execution, delivery and performance by the Borrower of each Loan Document to which such Person is or is to be a party have been duly authorized by all necessary action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person, (ii) any of the Facility Documents, (iii) the Grant Documents, (iv) the Borrower's eligibility for the ITC, or (v) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.

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[18] Note to Draft: To be confirmed.

5.03 Governmental Authorization; Other Consents**.** No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any other Governmental Authority or any other Person is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, the Borrower of this Agreement or any other Loan Document, (b) the grant by the Borrower of the Liens granted by it pursuant to the Collateral Documents, (c) the perfection or maintenance of the Liens created under the Collateral Documents (including the first priority nature thereof), or (d) the exercise by the Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, other than (i) authorizations, approvals, actions, notices and filings which have been duly obtained or will be obtained pursuant to the terms of this Agreement and (ii) filings to perfect the Liens created by the Collateral Documents.

5.04 **Binding Effect.** This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by the Borrower that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of the Borrower, enforceable against the Borrower that is party thereto in accordance with its terms, except as limited by general principles of equity and Debtor Relief Laws. The Borrower hereby waives and agrees not to invoke any right to sovereign immunity as to the enforcement of the Loan Documents, repayment of the Obligations and any other obligation of the Borrower hereunder.

5.05 **No Material Adverse Effect**. Since the date of the Borrower's application for the Loan with the Lender, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

5.06 **Litigation.** There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of Borrower after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against Borrower or against any of its properties or revenues that (a) relate to this Agreement or any other Loan Document, or the Facility, or any of the transactions contemplated hereby, and (b) either individually or in the aggregate, if determined adversely, could impair the Borrower's ability to repay the Loan or have a Material Adverse Effect.

5.07 **No Default.** Borrower is not in default under or with respect to any Contractual Obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

5.08 **Ownership of Property; Liens.** Borrower has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used for the Project or for the Facility, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The property of Borrower is subject to no Liens, other than Liens permitted by Section 7.01.

5.09 **Environmental Compliance.** Borrower conducts in the ordinary course of business relating to the Project a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on its operations and properties relating to the Project and Facility, and as a result thereof Borrower has reasonably concluded that such Environmental Laws and claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.10 **Insurance.** The Borrower, its assets relating to the Project and Facility, and its properties which the Facility will be on are insured with financially sound and reputable insurance companies not

Affiliates of Borrower, in such amounts with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where Borrower operates the Facility.

5.11 Margin Regulations; Investment Company Act.

(a) Borrower is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U, T or X of the FRB), or extending credit for the purpose of purchasing or carrying margin stock.

(b) None of Borrower or any Person Controlling Borrower is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

5.12 Disclosure. Borrower has disclosed to the Lender all agreements, instruments and corporate or other restrictions to which the Project or Facility is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No report, financial statement, certificate or other information furnished (whether in writing or orally) by or on behalf of the Borrower to the Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

5.13 Compliance with Laws. Borrower is in compliance in all respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to the Project and Facility, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

5.14 Collateral Documents. The provisions of the Collateral Documents are effective to create in favor of the Lender a legal, valid and enforceable first priority Lien (subject to Liens permitted by Section 7.01) on all right, title and interest of the Borrower in the Collateral described therein. Upon the filing of UCC financing statements in accordance with Section 5.17 and upon the taking of possession or control by the Lender of the Collateral that is the subject of the Security Agreement or the Deposit Account Security Agreement with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Lender to the extent possession or control by the Lender is required by the Security Agreement and/or the Deposit Account Security Agreement), the Liens created by the Security Agreement and the Deposit Account Security Agreement shall constitute first priority perfected Liens on, and security interests in, all right, title and interest of the grantors in the Collateral that is the subject of the Security Agreement and the Deposit Account Security Agreement (other than such Collateral in which a security interest cannot be perfected under the UCC as in effect at the relevant time in the relevant jurisdiction by such filings, possession or control), in each case subject to no Liens other than Liens permitted by Section 7.01. Except for filings completed prior to the Closing Date and as contemplated hereby and by the Collateral Documents, no filing or other action will be necessary to perfect or protect such Liens.

5.15 Intellectual Property; Licenses, Etc. Borrower owns, or possesses the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, "IP Rights") that are necessary for the operation of the Facility, without conflict with the rights of any other Person. To the best knowledge of Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by Borrower infringes upon any rights held by any other Person. No claim or litigation regarding any of the foregoing is pending or, to the best knowledge of Borrower, threatened, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

5.16 Solvency. The Borrower is Solvent. "Solvent" and "Solvency" mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

5.17 Rights in Collateral; Priority of Liens. The Borrower owns the property granted by it as Collateral under the Collateral Documents, free and clear of any and all Liens in favor of third parties other than Liens permitted by Section 7.01. Upon the proper filing of UCC financing statements and the taking of the other actions required by the Lender or the law, the Liens granted pursuant to the Collateral Documents will constitute valid and enforceable, first priority and perfected Liens on the Collateral in favor of Lender.

5.18 Sanctions Concerns.

(a) Sanctions Concerns. No Borrower nor, to the knowledge of the Borrower, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by any individual or entity that is (i) currently the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority, or (iii) located, organized or resident in a Designated Jurisdiction.

(b) Anti-Corruption Laws. The Borrower have conducted their business in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions, and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

(c) Patriot Act. The Borrower and, to the knowledge of the Borrower, any director, officer, employee, agent, affiliate or representative thereof, are in compliance with the Act.

5.19 The Facility.

(a) No authorization, approval, consent of, and no filing, notice, certification or registration with FERC or the CT PURA is required for Borrower's execution and delivery of this Agreement or the other Loan Documents, the consummation of the transactions contemplated by this Agreement or the other Loan Documents, or the performance of its obligations under this Agreement or the other Loan Documents.

(b) Except as may result from the exercise of remedies under this Agreement, neither Lender nor any "affiliate" (as that term is defined in Section 1262(1) of the Public Utility Company Holding Act) of Lender will, solely as a result of the execution and delivery of this Agreement or the other Loan Documents, the consummation of the transactions contemplated by this Agreement and the other Loan Documents, or the performance of obligations under this Agreement or the other Loan Documents, including, without limitation, Borrower's ownership, construction and operation of the Facility prior to the repayment of all Obligations, be subject to, or not exempt from, regulation by FERC or the CT PURA.

(c) To Borrower's knowledge, Borrower is not in default under any of the Facility Documents.

ARTICLE VI. AFFIRMATIVE COVENANTS

On and after the Closing Date, and for so long as any Obligation hereunder shall remain unpaid or unsatisfied, Borrower agrees that, and Borrower shall:

6.01 **Financial Information.** Deliver to the Lender, in form and detail satisfactory to the Lender:

(a) In conjunction with the requirements under Section 6.16, monthly reporting within ten (10) days of the end of each month, status of the Facility Documents, and receipts and status of grants and tax credits, including the Grant and ITC;

(b) [reporting for GGRF compliance, including but not limited wage data for construction labor and equipment information][19]; and

(c) [Any applicable financial reporting].[20]

6.02 **Certificates; Other Information.** Deliver to the Lender, in form and detail satisfactory to the Lender promptly, such information regarding the business, financial or corporate affairs of Borrower, Project or Facility, or compliance with the terms of the Loan Documents, as the Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01 and Section 6.02 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which Borrower such documents; provided that: Borrower shall deliver paper copies of such documents to the Lender upon its request to Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Lender.

6.03 **Notices.** Promptly notify the Lender:

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[19] Note to Draft: To be determined if applicable.

[20] Note to Draft: To be provided.

(a) of the occurrence of any Default or Event of Default under the Loan Documents;

(b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under any Contractual Obligation or Facility Document of Borrower; (ii) any dispute, litigation, investigation, proceeding or suspension between Borrower and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting Borrower, including pursuant to any applicable Environmental Laws;

(c) of the occurrence of any event which would make the Borrower ineligible to receive the ITC or utilize the ITC to repay the Loan;

(d) of any interruption, delay or seizing of the development and construction of Project;

(e) of any action taken or proposed to be taken by the Borrower to stop, cancel, or cease to provide funding for the Project;

(f) of any material change in accounting policies or financial reporting practices by Borrower;

(g) of any notices of which Borrower becomes aware of any default, termination or other dispute or claim given under a Facility Document [(including, without limitation, any notice to any Person that a "Termination Payment" (as defined in the Power Purchase Agreement) is due)][21];

(h) [of an event of "Force Majeure" (as defined in the Power Purchase Agreement) of which Borrower becomes aware that prevents or substantially impairs the delivery of geothermal energy from the Facility in the quantities originally projected, which continues for a period of at least six (6) consecutive months][22];

(i) if, once online, the Facility goes offline, ceases operations or the generation of geothermal energy, or is damaged or destroyed;

(j) of the occurrence of any Default or Event of Default or a default or event of default or breach under any Construction Document, Facility Document or Grant Document; and

(k) the execution of any amendment, modification or waiver of or supplement to any Construction Document, Facility Document, or Grant Document together with a copy thereof.

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of Borrower setting forth details of the occurrence referred to therein and stating, to Borrower's knowledge, what action is being taken or proposed to be taken with respect thereto, and shall contain copies of all information, notices, and other documentation giving rise to such notice. Each notice pursuant to

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[21] Note to Draft: To be reviewed upon receipt of form of Power Purchase Agreement.

[22] Note to Draft: To be reviewed upon receipt of form of Power Purchase Agreement.

Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

6.04 Payment of Obligations. Pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by Borrower; (b) all lawful claims which, if unpaid, would by law become a Lien upon its property; and (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness.

6.05 Preservation of Existence, Etc. (a) Preserve, renew and maintain in full force and effect its valid and legal existence; and (b) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

6.06 Maintenance of Properties. (a) Maintain, preserve and protect all licenses, patents, franchises, trademarks and trade names of Borrower with respect to the Project and Facility; (a) maintain, preserve and protect all of its material properties and equipment necessary in the operation of the Project and Facility in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) use the standard of care typical in the industry in the operation and maintenance of the Facility.

6.07 Maintenance of Insurance. (a) Maintain with financially sound and reputable insurance companies which are not Affiliates of Borrower, insurance with respect to casualty events, business interruption, its properties and business against loss, damage or interruption of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons and providing for not less than 30 days' prior notice to the Lender of termination, lapse or cancellation of such insurance; and (b) provide to Lender, upon request, evidence satisfactory to Lender that all insurance required under this Agreement and the other Loan Documents is in effect. The Lender shall be listed as an additional insured on all of Borrower's liability policies and as a loss payee, lender's loss payee or mortgagee, as applicable and as requested by Lender, on all of Borrower's property policies.

6.08 Compliance with Laws. Comply in all respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property including without limitation the Act, OFAC and all Environmental Laws, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.09 Books and Records. (a) Maintain proper books of record and account as to the Project, Facility, Grant, ITC and Loan, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of Borrower; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over Borrower.

6.10 Inspection Rights. Permit representatives and independent contractors of the Lender to visit and inspect the Project, Facility, and the Collateral, to examine its corporate, financial and operating records as to same, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts as to same with its directors, officers, and independent public accountants, all at the expense of Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to Borrower; provided, however, that, so long as no Event of Default has occurred or is continuing, the Lender will not exercise their rights under this Section 6.10 more than once per calendar year; provided, further, that when an Event of Default exists the Lender (or any of its representatives or independent contractors) may do any of the foregoing at the expense of Borrower at any time during normal business hours and without advance notice.

6.11 Use of Proceeds. Utilize the Proceeds of the Loan and any Advance solely for the development and construction of the Project, including to fund the development, engineering, construction, maintenance, testing and operation of the Project, [and to pay all costs, fees, expenses (including legal fees and expenses) and other compensation payable to the Lender][23]. No proceeds shall be used for any purpose other than the Project, including, but not limited to refinance existing creditors or for distribution to City of New Haven.

6.12 Collateral Records. To execute and deliver promptly, upon written request, to the Lender, from time to time, solely for Lender's convenience in maintaining a record of the Collateral, such written statements and schedules as the Lender may reasonably require designating, identifying or describing the Collateral. The failure by Borrower, however, to promptly give the Lender such statements or schedules shall not affect, diminish, modify or otherwise limit the Lender's security interest on the Collateral.

6.13 Further Assurances.

(a) Promptly upon request by the Lender, (i) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (ii) on and after the Closing Date, do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Lender, may require from time to time in order to (A) the fullest extent permitted by applicable Law, subject the Borrower's properties, assets, rights or interests to the Liens now or hereafter intended to be covered by any of the Collateral Documents, and (B) perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and any of the Liens intended to be created thereunder.

(b) To (i) defend the Collateral against all claims and demands of all Persons at any time claiming the same or any interest therein, (ii) on and after the Closing Date, comply with the requirements of all applicable Laws in order to grant to the Lender valid and perfected first priority security interests in the Collateral, with perfection, in the case of any investment property, deposit account or letter of credit, being effected by giving the Lender control of such investment property or deposit account or letter of credit, rather than by the filing of a UCC financing statement with respect to such investment property, and (iii) do whatever the Lender may request, from time to time, to effect the purposes of this Agreement and the other Loan Documents, including filing notices of liens, UCC financing statements, fixture filings and amendments, renewals and continuations thereof on and after the Closing Date; cooperating with the Lender's representatives; keeping stock records; and, paying claims which might, if unpaid, become a Lien

[23] Note to Draft: To be confirmed if acceptable to Lender.

on the Collateral. The Lender is hereby authorized by Borrower to file any UCC financing statements covering the Collateral whether or not Borrower's signatures appear thereon.

6.14 Grant Documents. Perform, observe, comply with and enforce all of the provisions of the Grant Documents, subject to any applicable cure rights, and utilize the Grant solely for the Project.

6.15 Construction and Facility Documents. Perform, observe, comply with and enforce all of the provisions of the Construction Documents and Facility Documents, subject to any applicable cure rights. Prior to the Commercial Operation Date, the Borrower shall enter into the Power Purchase Agreements that shall have a term beyond the Maturity Date.

6.16 Construction of Project; Construction Progress Report. Prior to the Commercial Operation Date, (a) construct, or cause the construction of, the Project in accordance with the applicable Construction Documents, applicable Law and applicable permits, except where any such failure could not reasonably be expected to have a Material Adverse Effect; and (b) provide to the Lender and the Independent Engineer monthly construction progress reports with respect to the Project, in customary form, on or prior to the ten (10) days day following the last day of each calendar month, which shall include: (i) (A) an update on the general status of construction of the Project and completion of the material milestones set forth under each EPC Agreement, (B) a description of any material defects or deficiencies of which the Borrower is aware of (if any) and (C) an estimate of the date on which Final Completion is expected to be achieved and a detailed description of any failure to meet any milestones under each EPC Agreement, (ii) any updates in respect of the delivery milestones in each EPC Agreement, (iii) the amount of Project costs incurred to date and during the most recent monthly period and any material deviations from the Construction Budget or the Project Schedule, (iv) a reconciliation of the budgeted contingency spending versus the actual spending to date, (v) a summary of the status of the installed capacity, (vi) description of any liquidated damages accrued (if any), and (vii) a summary of any termination, material amendment, material consent or notice of a material matter under any Facility Document or Construction Document.

6.17 Operation of Project; Annual Operating Budget; Quarterly Operating Reports, etc.

(a) Once operational, (i) keep the Facility in good working order and condition, ordinary wear and tear excepted, and maintain and operate the Facility in accordance with Prudent Industry Practice and all applicable requirements of Law, and (ii) operate the Facility, or cause the same to be operated, in a manner materially consistent with all applicable permit.

(b) Prior to the Commercial Operation Date, adopt an operating plan and a budget, detailed by calendar month with anticipated revenues, maintenance, repair and operation expenses, maintenance reserves and all other anticipated operating and maintenance costs for the Facility for the period from Final Completion to the conclusion of the first full fiscal year thereafter and shall re-assess the scheduling and probable cost of each item of operation and maintenance of the Facility and include a timetable and budget therefor in such budget.

6.18 Major Project Contracts. (i) perform and observe all of its respective material covenants and material obligations contained in each of the Construction Documents and Facility Documents, (ii) exercise commercially reasonable efforts to prevent the termination or cancellation of any Construction Document and Facility Document in accordance with the terms of such Construction Document, Facility Document or otherwise (except for the expiration of any Construction Document and Facility Document in accordance with its terms and not as a result of a breach or default thereunder) and (iii) enforce against the relevant counterparty to such Construction Document and Facility Document each covenant or obligation of such Construction Document and Facility Document to which it is a party in accordance with its terms, except in the case of this clause (iii), where such failure could not reasonably be expected to have a Material Adverse Effect.

6.19 **Supplemental Terms.** Borrower shall at all times comply with and deliver any documents, certifications, or the similar required pursuant to, the Supplemental Terms.

6.20 **Operating Accounts.** Maintain its primary operating account as to the Project at [_______][24] at all times.

ARTICLE VII. NEGATIVE COVENANTS

On and after the Closing Date, and for so long as any Obligation shall remain unpaid or unsatisfied, Borrower shall not, directly or indirectly:

7.01 **Liens.** Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues relating to the Project or Facility, whether now owned or hereafter acquired, other than the following:

(a) Liens pursuant to any Loan Document;

(b) Liens for taxes not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of Borrower in accordance with GAAP;

(c) manufacturers', carriers', warehousemen's, mechanics', materialmen's, repairmen's, supplier's, construction, employees', contractors', operators' or other like Liens arising in the ordinary course of business or in connection with the construction, operation and maintenance of the Project and Facility, which do not interfere with the use of the Project or the Facility in any material respect and (i) that are for amounts not yet due or delinquent or (ii) (A) that are being contested in good faith by appropriate dispute resolution or other proceedings (so long as such proceedings could not reasonably result in the sale, forfeiture or loss of any material part of the Project or the Facility, title thereto or any interest therein) and (B) for which appropriate reserves have been made in accordance in all material respects with all applicable Law and GAAP; and

(d) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case incurred in the ordinary course of business.

7.02 **Indebtedness.** Create, incur, assume or suffer to exist any Indebtedness related to the Project or Facility, except Indebtedness under the Loan Documents.

7.03 **Fundamental Changes.** Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person.

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[24] Note to Draft: To be determined.

7.04 Dispositions. Make any Disposition relating to the Grant, Project or Facility or enter into any agreement to make any such Disposition.

7.05 Change in Nature of Business. Engage the Facility in any line of business substantially different from the line of business to be conducted by Borrower at the Facility on the date hereof or any business substantially related or incidental thereto.

7.06 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to Borrower or such Affiliate as would be obtainable by Borrower or such Affiliate at the time in a comparable arm's length transaction with a Person other than an Affiliate.

7.07 Burdensome Agreements. Enter into any Contractual Obligation (other than this Agreement or any other Loan Document) that: (a) limits the ability (i) of the Borrower to repay the Loan, use the Grant for the Project or be eligible for or obtain the ITC for repayment of the Loan or (ii) of the Borrower to create, incur, assume or suffer to exist Liens on its property in favor of the Lender; or (b) requires the grant of a Lien to secure an obligation.

7.08 Use of Proceeds. Use the proceeds of the Loan, whether directly or indirectly, and whether immediately, incidentally or ultimately, (i) to purchase or carry margin stock (within the meaning of Regulation U, T or X of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose or (ii) for any purpose other than those permitted by Section 6.11.

7.09 Inconsistent Agreements. Enter into, consent to, or vote in favor of the entering into of any agreement or arrangement which would restrict in any respect the ability of Borrower to fulfill its Obligations under the Loan Documents, in such a manner which would restrict in any respect the ability of Borrower to fulfill its Obligations under the Loan Documents.

7.10 Accounting Changes. Make any change in its (a) accounting policies or reporting practices, except as required by GAAP, or (b) fiscal year.

7.11 Sanctions. Directly or indirectly, use the Loan or the proceeds of the Loan, or lend, contribute or otherwise make available the Loan or the proceeds of the Loan to any Person, to fund any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as Lender or otherwise) of Sanctions.

7.12 Sale and Leaseback Transaction. Enter into any Sale and Leaseback Transaction.

7.13 Absence of Regulation. Without the prior written consent of Lender, take any action, or fail to take any action, that would subject Borrower, the Facility, or Lender to regulation by FERC or CT PURA.

7.14 Construction Documents, Facility Documents or Grant Documents. Without the prior written consent of Lender, materially amend, materially modify or grant any waiver or consent under any Construction Document, Facility Document or Grant Document, including any exhibit or schedule thereto; *provided* that, (i) any extension of any such document on terms that are not materially adverse to the Borrower shall not require the consent of the Lender, (ii) the Borrower shall be permitted to accept, approve or otherwise enter into any other change order under any EPC Agreement without the prior consent of the Lender, except for any such change order that (A) represents a change, to the extent such change is individually or, in conjunction with other changes, in the aggregate, material to the design of the Project; (B) represents a change in the Project Schedule that would materially alter the timetable for completion of the Project; (C) represents a material change in any performance testing or other conditions to the achievement of any material milestone set forth in any EPC Agreement; or (D) the dollar amount of such change order, together with the aggregate dollar amount of all prior other change orders under the EPC Agreements, is in excess of [__][25]% of the contingency line item in the Construction Budget; (iii) notwithstanding anything to the contrary in this Section 7.14(a), the Borrower shall not materially amend or otherwise materially modify, or grant any waiver or consent that materially and adversely affects, any material warranty or indemnification obligations of a counterparty under an applicable EPC Agreement unless such amendment, modification, waiver or consent is consented to by the Lender, except that no such consent shall be required solely with respect to extensions of the warranties under any EPC Agreement; and (iv) after Final Completion, any amendment, modification, waiver or consent to any Construction Document (other than any O&M Agreement) shall not require the consent of the Lender to the extent it could not reasonably be expected to have a Material Adverse Effect.Other than upon any expiration or termination upon its expiry in accordance with the terms of such Construction Document, Facility Document or Grant Document and not as a result of a breach or default thereunder, terminate, or consent to the full or partial termination (or effective termination resulting from an assignment of rights) of any Construction Document, Facility Document or Grant Document without the prior written consent of the Lender.assign, in whole or in part, its right and obligations under any Construction Document, Facility Document or Grant Document without the prior written consent of the Lender. **Abandonment of Project**. Wilfully and voluntarily abandon the development or construction of the Project for a continuous period of more than sixty (60) consecutive days (other than to the extent necessitated by any event of force majeure or any casualty) or (ii) at any time on or following Final Completion, suspend operation of the Facility for a continuous period of more than sixty (60) consecutive days (other than as a result of scheduled maintenance, repairs (whether or not scheduled), times of forced or scheduled outages (including curtailment), any event of force majeure, failure to be dispatched, any emergency affecting the Facility, or any casualty.

7.16 Transfer of ITCs. Sell or otherwise transfer or assign its rights under any ITCs related to the Project.

ARTICLE VIII. EVENTS OF DEFAULT AND REMEDIES

8.01 Events of Default. Any of the following shall constitute an "Event of Default":

(a) Non-Payment. Borrower fails to pay when and as required to be paid herein, any amount of principal of the Loan, any interest on the Loan within three (3) Business Days after the due date thereof,

[25] Note to Draft: Under review by Lender.

any fee due hereunder or any other amount payable hereunder or under any other Loan Document within three (3) Business Days after the due date thereof; or

(b) Specific Covenants. Borrower fails to perform or observe any term, covenant or agreement contained in any of Article VI or Article VII; or

(c) Other Defaults. The Borrower fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such default shall continue unremedied for a period of thirty (30) days after the earlier of (i) the date on which Borrower became aware of such default or (ii) notice thereof having been given to Borrower by the Lender, provided, however, that if the breach or default (other than a default for the payment of amounts when due) cannot be remedied within such period despite the Borrower's or such other party's, as the case may be, reasonable commercial efforts to do so, the such cure period shall be extended for an additional sixty (60)-day period beyond the initial cure period, to cure such breach or default if the breach or default could not reasonably be expected to have a Material Adverse Effect if not cured within such sixty (60)-day period and if remedial action (A) could reasonably be expected to result in cure within such additional sixty (60)-day period, (B) is promptly instituted within the initial cure period, and (C) is thereafter diligently pursued until the breach or default is corrected within such additional reasonable cure period granted by the Lender; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of Borrower, in any other Loan Document, or in any document delivered in connection herewith or therewith, by or on behalf of the Borrower, shall prove to have been false or misleading in any material respect as of the time made or deemed made and, if such misrepresentation or certificate is susceptible of cure, the adverse effect of the misrepresentation is not remedied within thirty (30) days of the Borrower receiving notice or such party's knowledge thereof; or

(e) Cross-Default. (i) Borrower fails to observe or perform under the Construction Document, Facility Document or Grant Document, or if there is a termination event under such Construction Document, Facility Document or Grant Document; or

(f) Insolvency Proceedings, Etc. The Borrower institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) The Borrower becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 60 days after its issue or levy; or

(h) Judgments. There is entered against Borrower any one or more final judgments or orders that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or

(B) there is a period of 10 consecutive Business Days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) Invalidity of Loan Documents. Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or the Borrower or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or the Borrower denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document; or

(j) Loss of Applicable Permits.

(i) The Borrower shall fail to obtain any permit and such failure would reasonably be expected to have a Material Adverse Effect; or

(ii) Any permit necessary for the development, construction or operation of the Project or Facility shall be materially modified (except in the ordinary course or standard practice for such permit), revoked, enjoined, or cancelled by the issuing agency or other Governmental Authority having jurisdiction and such modification, revocation, injunction or cancellation shall continue unremedied for a period of sixty (60) days from such modification, revocation, injunction or cancellation unless (A) the Borrower can demonstrate to the reasonable satisfaction of the Lender within such sixty (60) day period that such modification, revocation, injunction or cancellation could not reasonably be expected to have a Material Adverse Effect and that the Borrower is proceeding with diligence and in good faith to remedy such modification, revocation, injunction or cancellation or (B) if such modification, revocation, injunction or cancellation cannot be remedied within such sixty (60) day period, the Borrower is contesting with diligence and in good faith such modification, revocation, injunction or cancellation through appropriate proceedings and either such proceedings suspend the effectiveness of such modification, revocation, injunction or cancellation or the Borrower has otherwise secured a suspension of the effectiveness of such modification, revocation, injunction or cancellation until a final determination has been made by the applicable Governmental Authority or a court of competent jurisdiction.

(k) Collateral Documents. Any Collateral Document after delivery thereof shall for any reason (other than pursuant to the terms thereof) cease to be in full force and effect or to create a valid and perfected first priority Lien (subject to Liens permitted by Section 7.01) on the Collateral purported to be covered thereby; or the Borrower or any other Person, directly or indirectly, disavows or contests in any manner the effectiveness, validity, perfection of or enforceability of the security interest in or Lien on the Collateral; or

(l) Project Contracts.

(i) Loan Parties. The Borrower shall be in breach of, or there shall be a default by the Borrower thereof under, a Construction Document, Facility Document or Grant Document beyond any applicable grace or cure period set forth in such Construction Document, Facility Document or Grant Document; *provided* that, no Event of Default shall occur hereunder in respect of such breach or default under any Construction Document, Facility Document or Grant Document if (x) such breach or default shall be remediable unless such breach or default shall continue unremedied for a period equal to thirty (30) days or (y) such default or breach could not reasonably be expected to have a Material Adverse Effect.

(ii) Termination. Any Construction Document, Facility Document or Grant Document shall have terminated (except upon fulfillment of the obligations of the parties thereto thereunder or the scheduled expiration of the term of such Construction Document, Facility Document or Grant Document); *provided* that, no Event of Default shall occur as a result of any such action with respect to any such Construction Document if such Construction Document is restored or replaced within at the latest sixty (60) days thereafter by a replacement contract reasonably acceptable to Lender with substantially similar economic and operational effect on the Borrower as the Construction Document being replaced and with a third party having substantially similar creditworthiness and experience as the counterparty being replaced, or otherwise in form and substance reasonably acceptable to the Lender, and, in either case, such action has not had, and could not, individually or in the aggregate, prior to so obtaining such replacement provision or replacement, be reasonably expected to have, a Material Adverse Effect.

(m) Commercial Operation. The Project shall have failed to achieve the Commercial Operation Date by the Outside Date.

(n) [Initial Advance. The Borrower shall have failed to make the first Advance and meet the requirements of Section 4.02 by December 31, 2026.][26]

(o) Change of Control. There occurs any Change of Control.

(p) Uninsured Loss. Any uninsured damage to or loss, theft or destruction of any assets of the Borrower shall occur that is in excess of the Threshold Amount.

If a Default shall have occurred under the Loan Documents, then such Default will continue to exist until it either is cured (to the extent specifically permitted) in accordance with the Loan Documents or is otherwise expressly waived by Lender as determined in accordance with Section 9.1); and once an Event of Default occurs under the Loan Documents, then such Event of Default will continue to exist until it is otherwise expressly waived by the Lender, as required hereunder in Section 9.1.

8.02 Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Lender shall, at the request of, or may, with the consent of, the Lender, take any or all of the following actions:

(a) declare the unpaid principal amount of the Loan, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by Borrower; and

(b) exercise on behalf of itself and Lender all rights and remedies available to it and/or Lender under the Loan Documents, at law or in equity;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to Borrower under the Bankruptcy Code of the United States, the unpaid principal amount of the Loan and

[26] Note to Draft: To be confirmed.

all interest and other amounts as aforesaid shall automatically become due and payable without further act of the Lender.

8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loan has automatically become immediately due and payable as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall be applied by the Lender in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to Lender (including fees, charges and disbursements of counsel to the Lender (including fees and time charges for attorneys who may be employees of Lender) and amounts payable under Article III and any unpaid portion of the facility fee under Section 2.07);

Second, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loan and other Obligations including ordinary course payments;

Third, to payment of that portion of the Obligations constituting unpaid principal of the Loan;

Fourth, to the payment of all other remaining Obligations; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to Borrower or as otherwise required by Law.

ARTICLE IX. MISCELLANEOUS

9.01 Supplemental Terms; Amendments, Etc. The Borrower agrees to be bound by, and provide all acknowledgements required pursuant to, the Supplemental Terms, which shall be made part of this Agreement. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by Borrower therefrom, shall be effective unless in writing signed by Lender and Borrower, as the case may be, and acknowledged by the Lender, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

9.02 Notices; Effectiveness; Electronic Communication.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, of the Borrower or the Lender, to the address, electronic mail address or telephone number specified for such Person on Schedule 9.02. Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received. Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to Lender hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Lender. The Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

In accordance herewith, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Change of Address, Etc. Each of Borrower and the Lender may change its address or telephone number for notices and other communications hereunder by notice to the other parties hereto. Lender may change its address or telephone number for notices and other communications hereunder by notice to Borrower and the Lender.

(d) Reliance by Lender. The Lender shall be entitled to rely and act upon any notices purportedly given by or on behalf of Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. Borrower shall indemnify the Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of Borrower. All telephonic notices to and other telephonic communications with the Lender may be recorded by the Lender, and each of the parties hereto hereby consents to such recording.

9.03 No Waiver; Cumulative Remedies; Enforcement**.** No failure by Lender to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

9.04 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Lender (including the reasonable fees, charges and disbursements of counsel for the Lender), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all out-of-pocket expenses incurred by the Lender (including the fees, charges and disbursements of any counsel for the Lender), and shall pay all reasonable fees and time charges for attorneys who may be employees of the Lender, in connection with the enforcement or protection of Lender's rights (A) in connection with this Agreement and the other Loan Documents, including their rights under this Section, and/or (B) in connection with the Loan made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Loan.

(b) Indemnification by Borrower. Borrower shall indemnify the Lender and each Related Party (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, obligations and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each

Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, the administration of this Agreement and the other Loan Documents, (ii) the Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials in, on, under, from or affecting any real property owned, operated or leased by Borrower or any Environmental Liability in any way related to or affecting Borrower, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by Borrower and regardless of whether any Indemnitee is a party thereto, including, without limitation, (A) the reasonable costs of assessment, containment and/or removal of any and all Hazardous Materials from all or any portion of any real property owned, operated or leased by Borrower, (B) the reasonable costs of any necessary actions taken in response to a release or threat of release of any Hazardous Materials on, in, under or affecting all or any portion of any real property owned, operated or leased by Borrower to prevent or minimize such release or threat of release so that it does not migrate or otherwise cause or threaten danger to present or future public health, safety, welfare or the environment, and (C) costs incurred to comply with the Environmental Laws in connection with all or any portion of any real property owned, operated or leased by Borrower with respect to the Project or Facility; provided that such indemnity set forth above in (i), (ii), (iii), and (iv) of this Section shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by Borrower against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if Borrower has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(c) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable Law, Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, the Loan or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(d) Payments. All amounts due under this Section shall be payable not later than ten (10) Business Days after demand therefor.

(e) Survival. The agreements in this Section shall survive the repayment, satisfaction or discharge of all the other Obligations.

9.05 Payments Set Aside. To the extent that any payment by or on behalf of Borrower is made to the Lender, or the Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred.

9.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Lender (such consent to be in the Lender's sole discretion (and any attempted assignment or transfer by the Borrower without such consent shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, and, to the extent expressly contemplated hereby, the Related Parties of the and Lender) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lender. Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the portion of the Loan at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the portion of the Loan at the time owing to it or in the case of an assignment to Lender or an Affiliate of Lender, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes the Loan outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loan of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Lender or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than [$___________][27] unless each of the Lender and, so long as no Event of Default has occurred and is continuing, Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met.

[27] Note to Draft: Under review by Lender.

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Commitment assigned, except that this clause (ii) shall not prohibit Lender from assigning all or a portion of its rights and obligations among separate facilities hereunder on a non-pro rata basis;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to Lender or an Affiliate of Lender; provided that Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Lender within five (5) Business Days after having received notice thereof; and

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Lender an Assignment and Assumption.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to Borrower or any of Borrower's Affiliates or Affiliates, or (B) to any Lender in default under its obligations hereunder or any of its Affiliates, or any Person who, upon becoming Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) to a natural person.

From and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.02, and 9.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

9.07 Right of Setoff. If an Event of Default shall have occurred and be continuing, Lender and its Affiliates are hereby authorized at any time and from time to time to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by Lender or any such Affiliate to or for the credit or the account of Borrower against any and all of the obligations of Borrower now or hereafter existing under this Agreement or any other Loan Document to Lender, irrespective of whether or not Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations of Borrower may be contingent or unmatured or are owed to a branch or office of Lender different from the branch or office holding such deposit or obligated on such indebtedness. The rights of Lender and its Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that Lender or any such Affiliate may have. Lender agrees to notify Borrower promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

9.08 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loan or, if it exceeds such unpaid principal, refunded to Borrower. In determining whether the interest contracted for, charged, or received by the Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

9.09 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Lender and when the Lender shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means (e.g. .pdf) shall be effective as delivery of a manually executed counterpart of this Agreement.

9.10 Survival of Representations and Warranties. All covenants, agreements, representations, and warranties made by any Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Lender may have notice or knowledge of any Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of, or any accrued interest on, any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid and so long as the Commitment has not expired or terminated. The provisions of Article III, and Article IX shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitment, or the termination of this Agreement or any provision hereof.

9.11 Severability**.** If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

9.12 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CONNECTICUT.

(b) SUBMISSION TO JURISDICTION. BORROWER IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF CONNECTICUT SITTING IN HARTFORD COUNTY AND OF THE UNITED STATES DISTRICT COURT OF CONNECTICUT, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH CONNECTICUT STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 9.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

9.13 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

9.14 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), Borrower acknowledges and agrees**,** and acknowledges its Affiliates' understanding**,** that: (i) (A) the arranging and other services regarding this Agreement provided by the Lender are arm's-length commercial transactions between Borrower, on the one hand, and the Lender on the other hand, (B) Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for Borrower, or any of its Affiliates, or any other Person and (B) the Lender has no obligation to Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Lender and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of Borrower and its Affiliates, and the Lender has no obligation to disclose any of such interests to Borrower or any of its Affiliates. To the fullest extent permitted by law, Borrower hereby waives and releases any claims that it may have against the Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

9.15 Electronic Execution of Assignments and Certain Other Documents. The words "execution," "signed," "signature," and words of like import in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

9.16 USA Patriot Act Notice. Lender that is subject to the Act (as hereinafter defined) hereby notifies Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies Borrower, which information includes the name and address of Borrower and other information that will allow Lender to identify Borrower in accordance with the Act. Borrower shall, promptly following a request by the Lender, provide all documentation and other information that the Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Act.

9.17 Chapter 903a. BORROWER EXPRESSLY ACKNOWLEDGES THAT THIS AGREEMENT AND EACH TRANSACTION RELATED TO IT IS A "COMMERCIAL TRANSACTION" WITHIN THE MEANING OF CHAPTER 903a OF THE CONNECTICUT GENERAL STATUTES, AS AMENDED. BORROWER HEREBY VOLUNTARILY AND KNOWINGLY WAIVES ANY AND ALL RIGHTS WHICH ARE OR MAY BE CONFERRED UPON IT UNDER CHAPTER 903a OF SAID STATUTES (OR ANY OTHER FEDERAL OR STATE LAW AFFECTING PREJUDGMENT REMEDIES) TO ANY NOTICE OR HEARING OR PRIOR COURT ORDER OR THE POSTING OF A BOND PRIOR TO THE LENDER OBTAINING A PREJUDGMENT REMEDY. BORROWER FURTHER WAIVES ANY REQUIREMENT OR OBLIGATION OF THE LENDER TO POST A BOND OR OTHER SECURITY IN CONNECTION WITH ANY PREJUDGMENT REMEDY OBTAINED BY LENDER. BORROWER ACKNOWLEDGES THAT IT HAS BEEN ADVISED BY COUNSEL OF ITS CHOICE OR HAS HAD THE OPPORTUNITY TO RETAIN COUNSEL OF ITS CHOICE WITH RESPECT TO THIS TRANSACTION AND THIS AGREEMENT.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

CITY OF NEW HAVEN

By:_____________________________________
Name:
Title:

CONNECTICUT GREEN BANK,
as Lender

By: ____

Name: Bryan Garcia
Title: President & CEO

SCHEDULE 4.01(B)

RESPONSIBLE OFFICERS

SCHEDULE 9.02

LENDER'S OFFICE;
CERTAIN ADDRESSES FOR NOTICES

BORROWER:

____
____
____
Attention: _________________
Telephone: ________________
Electronic Mail: ____________

With a copy to:

____
____
____
Attention: _________________
Telephone: ________________
Electronic Mail: ____________

LENDER:

Connecticut Green Bank
75 Charter Oak Avenue
Hartford, CT 06106
Attention: General Counsel
Telephone: (860) 563-0015
Electronic Mail: brian.farnen@ctgreenbank.com

With a copies to:

Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103
Attention: James C. Schulwolf, Esq.
Telephone: (860) 251-5949
Electronic Mail: JSchulwolf@goodwin.com

EXHIBIT A

FORM OF NOTE

(ATTACHED)

EXHIBIT B

FORM OF COLLATERAL DOCUMENTS

(ATTACHED)

EXHIBIT C

FORM OF ENVIRONMENTAL INDEMNITY

(ATTACHED)

EXHIBIT D

Supplemental Terms

The following Supplement Terms are hereby made a part of the Agreement. Capitalized terms not otherwise defined in this Exhibit D shall have the meaning so ascribed in the Agreement. For purposes of this Exhibit D, Borrower shall be referred to as “Contractor”.

A. Non-Discrimination.

a. For purposes of this Section, “Contractor”, “contractor” and “Consultant” shall have the same meaning, “Contract”, “contract” and “Agreement” shall have the same meaning and other otherwise undefined terms have the meaning ascribed to them in Connecticut General Statutes § 4a-60g.

b. Pursuant to Connecticut General Statutes § 4a-60:

1. The Contractor agrees and warrants that in the Performance of this Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status of a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents Performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status of a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved;

2. the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action equal opportunity employer" in accordance with regulations adopted by the Commission on Human Rights and Opportunities (the “Commission”);

3. the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers’ representative of the Contractor's commitments under this Section and to post copies of the notice in conspicuous places available to employees and applicants for employment;

4. the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a- 68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and

5. the Contractor agrees to provide the Commission with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

c. Pursuant to Connecticut General Statutes § 4a-60a:

1. The Contractor agrees and warrants that in the performance of this Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;

2. the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Contract or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission advising the labor union or workers' representative of the Contractor's commitments under this Section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

3. the Contractor agrees to comply with each provision of this Section and with each regulation or relevant order issued by said commission pursuant to Connecticut General Statutes §46a-56; and

4. the Contractor agrees to provide the Commission with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes §46a-56.

d. Pursuant to subsection (c) of section 4a-60 and subsection (b) of section 4a-60a of the Connecticut General Statutes, the Contractor, for itself and its authorized signatory of this Contract, affirms that it understands the obligations of this section and that it will maintain a policy for the duration of the Contract to assure that the Contract will be performed in compliance with the nondiscrimination requirements of such sections. The Contractor and its authorized signatory of this Contract demonstrate their understanding of this obligation by either (A) having provided an affirmative response in the required online bid or response to a proposal question which asks if the contractor understands its obligations under such sections, or (B) initialing this nondiscrimination affirmation in the following box:

B. **<u>Occupational Safety and Health Act Compliance.</u>** Contractor certifies it (1) has not been cited for three or more willful or serious violations of any occupational safety and health act or of any standard, order or regulation promulgated pursuant to such act, during the three-year period preceding the date of the Agreement, provided such violations were cited in accordance with the provisions of any state occupational safety and health act or the Occupational Safety and Health Act of 1970, and not abated within the time fixed by the citation and such citation has not been set aside following appeal to the appropriate agency or court having jurisdiction or (2) has not received one or more criminal convictions related to the injury or death of any employee in the three-year period preceding the date of the Agreement.

C. **<u>Campaign Contribution Restriction and Certification</u>**. For all state contracts, defined in section 9-612 of the Connecticut General Statutes as having a value in a calendar year of $50,000 or more, or a combination or series of such agreements or contracts having a value of $100,000 or more, the authorized signatory to this Agreement represents that they have received the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See https://seec.ct.gov/Portal/data/forms/ContrForms/seec_form_10_final.pdf. The Contractor makes the representations set forth in the Campaign Contribution Certification (OPM Form 1) and agrees to provide such form at such times as required by applicable law.

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

E. **<u>No Misrepresentation of Material Nondisclosure</u>**. The Borrower has not made and will not make to Lender, in this Agreement or otherwise, any untrue statement of a material fact, nor has it omitted to state a material fact necessary to make any statement made not misleading. Any warranty, representation or statement made or furnished by Borrower or on Borrower's behalf under this Agreement, or any related documents, are made or furnished under penalty of false statement as provided in Connecticut General Statutes § 53a-157b.

F. **<u>Annual Statement of Sources and Uses of Funds</u>**. Together with any annual Borrower financial statements provided to Lender hereunder or upon request from Lender, Borrower shall provide Lender an annual statement, certified as correct by the chief financial officer or equivalent authorized representative, setting forth all sources and uses of funds (in such detail as may be required by Lender) received from Lender pursuant to this Agreement.

EXHIBIT E

Form of Advance Request

[To be provided]

EXHIBIT E

Assignment and Assumption Agreement

[To be provided]