

Caroline County Board of Supervisors Agenda Executive Summary

Meeting Date: September 13, 2022

Title: Siting Agreement - SPEX-04-2021
Burke Development, LLC; Burke Holdings, LP;
Concord North, LLC; Concord South, LLC;
AA Wright Properties, LLC, Gardner, Donald;
Milford Excelsior, LLC; Maggie Nelson Thornton Estate;
CC Solar, LLC, Owners / CC Solar, Applicant

(Check Mark)

Consent

Action

No Action (Information Only)

Resolution

Closed Meeting

Public Hearing

Ordinance

PowerPoint Presentation

Summary: §15.2-2316.8 (Powers of the Host Localities) of the Code of Virginia allows localities to consider the acceptance and approval of a siting agreement for a major solar energy project. The siting agreement subject to tonight's public hearing includes supplemental provisions for permitting, construction and administration, operations and maintenance, fees, payments and contributions, closure and decommissioning, and other miscellaneous provisions for CC Solar, LLC in conjunction with the approval of SPEX-04-2021.

A clean copy of the draft siting agreement and blue-line comparison copies are included with this packet as follows:

1. Clean Copy
2. September 6, 2022 changes to August 26, 2022 document
3. August 26, 2022 changes to original August 9, 2022 document

The Board held a public hearing for the siting agreement at its August 9, 2022 meeting. However, due to substantial changes from the initial proposal, a new public hearing is warranted.

Budget Impact: N/A

Action(s) Requested of the Board of Supervisors: Conduct the public hearing and take action as appropriate on the siting agreement.

Presenter: Michael A. Finchum, Director, Planning & Community Development

SOLAR SITING AGREEMENT

**CC SOLAR, LLC,
AND THE COUNTY OF CAROLINE, VIRGINIA**

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List of Exhibits:

- Exhibit A – Tax Parcels
- Exhibit B – Development Plan
- Exhibit C – Special Exception Permit Conditions

DRAFT

SOLAR SITING AGREEMENT

This Solar Siting Agreement (“**Agreement**”) dated as of September 13, 2022, between Caroline County, Virginia, a body politic and political subdivision of the Commonwealth of Virginia (the “**County**”); and CC Solar, LLC, a Virginia limited liability company, and its successors and assigns (“**CC Solar**”) (singularly, a “**Party**” and, collectively, the “**Parties**”), recites and provides as follows:

RECITALS

R-1. CC Solar intends to develop, install, build, and operate a ground-mounted solar photovoltaic electric generating facility (the “**Project**”) on certain parcel(s) of land identified as Caroline County tax map parcel nos. identified on Exhibit A (the “**Property**” or the “**Site**”).

R-2. CC Solar owns, has acquired, or shall acquire the Property, which contains a total of approximately 1,682.3 acres and is more fully described on the Development Plan which is attached hereto as Exhibit B, and to which Development Plan reference is hereby made for a more complete and accurate description of the Property.

R-3. CC Solar or its agent or contractors will apply to all federal, state, and local regulating authorities and will seek to obtain all licenses, approvals, and permits required by law, regulation, or ordinance for the construction and operation of the Solar Facility (as hereinafter defined).

R-4. After all licenses, approvals, and permits are issued to CC Solar, CC Solar will commence operations of the Solar Facility in accordance with the terms of this Agreement; applicable building and zoning regulations; applicable special exception permit conditions; and all federal, state, and local laws, ordinances, and regulations.

R-5. Virginia Code § 15.2-2316.7, requires that each applicant for a solar facility shall meet, discuss, and negotiate a siting agreement with the locality. The County and CC Solar intend to, and do, hereby enter into this Agreement for the purpose of complying with Virginia Code § 15.2-2316.7 and to set forth their respective rights, duties, and obligations.

R-6. Pursuant to Virginia Code § 58.1-2636 the County has adopted an ordinance assessing the maximum permitted revenue share per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility (“**Solar Revenue Share**”).

R-7. Pursuant to Virginia Code § 58.1-3660, in adopting the Solar Revenue Share, the solar photovoltaic (electric energy) systems associated with the Project, which are considered “certified pollution control equipment” are exempt from all state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia (the “**Tax Exemption**”).

R-8. CC Solar, as set out in this Agreement, has agreed to make a voluntary payment to the County, above and beyond its tax obligations and the Solar Revenue Share, as a meaningful

way to be a community partner in the County and to help address capital and operational needs of the County in accordance with Virginia Code § 15.2-2316.7(B).

R-9. CC Solar, pursuant to the Solar Revenue Share and the Tax Exemption, has agreed to the payments and financial terms contained herein.

R-10. The County, pursuant to the requirement of Virginia Code § 15.2-2316.8(B), has held a public hearing in accordance with subdivision A of Virginia Code § 15.2-2204 for the purpose of considering this Agreement, after which a majority of a quorum of the members of the Caroline County Board of Supervisors (the “**Board**”) approved this Agreement.

NOW, THEREFORE, pursuant to Chapter 22, Title 15.2, Article 7.3 of the Code of Virginia, as amended, intending to be legally bound hereby and in consideration of the mutual obligations and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

DEFINITIONS

“**Abandoned**” means the discontinuation of power generation by the Solar Facility for a period of twelve (12) continuous months as set out in the Special Exception Permit.

“**Board**” means the Board of Supervisors of Caroline County, Virginia.

“**Commercial Operation**” means the establishment of Grid synchronization and operation to continuously deliver electrical energy output from Solar Facility to the Grid (not test energy), the commencement of which shall be the “Synchronization Date”.

“**County Administrator**” means the county administrator of Caroline County, Virginia.

“**Decommission**”, “**Decommissioned**”, “**Decommissioning**” or “**Decommissioning Activities**” means the work necessary to remove the Solar Facility improvements from the Property, restore the Property as required by the Caroline County Zoning Ordinance and the Special Exception Permit, and to otherwise comply with the Decommissioning Plan.

“**Decommissioning Plan**” means the plan for Decommissioning Activities submitted by CC Solar and approved by the County.

“**Development Plan**” means the detailed drawing showing all equipment, landscaping, roads, retention facilities, fencing, buffers, and other changes or improvements to be made to the Property for the development of the Project, attached hereto as **Exhibit B**, and incorporated herein by reference.

“**Effective Date**” means the date on which all signatures have been secured on this Agreement.

“Final Site Plan” means the detailed drawing showing all equipment, excavation, landscaping, and other changes or improvements to be made to the Property for the development of the Project which is to be administratively reviewed and approved by the Caroline County Department of Planning and Community Development and other required departments and agencies of the Commonwealth of Virginia.

“Grid” means the interconnected network for delivering electricity from producers to consumers (consisting of generating stations, electrical substations, high voltage transmission lines, and distribution lines that connect individual customers) to which the Project is connected and provides power.

“Related Entity” or **“Related Entities”** means any entity that is controlled by, controls or under common control with CC Solar.

“Solar Facility” means the Site together with all equipment, apparatus, or other items of personal property used for the construction, operation, or Decommissioning of the Project.

“Special Exception Permit” means the permit granted by the County to CC Solar for the development of the Project, as attached in **Exhibit C**.

“Surety Review Date” means the date by which the cost estimate in the Decommissioning Plan shall be updated every five (5) years pursuant to the Caroline County Zoning Ordinance and the approved Decommissioning Plan.

“Term” means the period beginning on the last date on which this Agreement is executed by the last Party to sign and ending on the date when Decommissioning is complete.

“Termination Date” means the earlier of (i) the date of CC Solar’s voluntary commencement of the Decommissioning of all or a material portion of the Project, (ii) the date the Special Exception Permit is revoked, lapses, expires, or is voided, or (iii) the date the Project is deemed Abandoned.

SECTION 1. PERMITTING, CONSTRUCTION AND ADMINISTRATION

1.1 No obligation to Develop.

CC Solar has no obligation to develop the Project. Any test energy or other energy produced prior to Commercial Operation shall not trigger Payment under Section 3. It is understood that development of the Project by CC Solar is contingent upon a number of factors, including, but not limited to, regulatory approvals, availability and cost of equipment and financing, and demand for renewable energy and renewable energy credits. No election by CC Solar to terminate, defer, suspend, or modify plans to develop the Project shall be deemed a default of CC Solar under this Agreement.

1.2 Approved Plans.

Prior to beginning construction CC Solar will submit to the County and obtain the County's approval, and all other approvals as applicable, of all of the following, in accordance with the Special Exception Permit and Article XV Section 23 of the Caroline County Zoning Ordinance, as amended:

1.2.1 The Final Site Plan (for which application shall be made within twenty-four (24) months after approval of the Special Exception Permit)

1.2.2 The Decommissioning Plan

1.2.3 An emergency response plan, which at a minimum shall include fire suppression methods that can be readily deployed during both the construction and the operation of the Project and a program of education and training for County emergency response staff covering onsite emergency response.

1.2.4 A construction traffic management plan to be approved by the Virginia Department of Transportation (VDOT), which at a minimum shall address traffic control measures, an evaluation of the condition of the public roads along the delivery routes prior to construction, and a description and estimate of any anticipated repairs to public roads necessitated by damages attributable to Project construction.

1.2.5 A stormwater management plan.

1.2.6 An erosion and sediment control plan in accordance with the County's Erosion and Sediment Control Ordinance, Caroline County Code §§ 45-1 through 45-9, as amended, the associated Erosions and Sediment Control Services Agreement, and any other controls as authorized, in accordance with the conditions of the Special Exception Permit.

1.2.7 A construction phasing plan.

1.3. Solar Facility Liaisons.

1.3.1. CC Solar will provide to the County at all times the name and contact information for at least one individual who will serve as the primary point of contact and at least one individual who will serve as the backup point of contact for the Solar Facility. Each such individual shall be known as a "Solar Facility Liaison." The Solar Facility Liaison shall be knowledgeable about the Solar Facility and its operations and shall also serve as the emergency contact for the sheriff's office, fire and rescue, and other emergency services, and will therefore be available any time (365 days a year, 24 hours a day) in the event of an emergency.

1.3.2. Subject to compliance with safety requirements prescribed by CC Solar, each Solar Facility Liaison shall have access to working areas of the Solar Facility to

ensure compliance with this Agreement and with applicable laws, regulations, and permit requirements.

1.3.3. The County will provide to CC Solar at all times the name and contact information for at least one individual who will serve as the primary point of contact and at least one individual who will serve as the backup point of contact for the County. Each such individual shall be known as a “County Solar Facility Liaison.”

1.3.4. CC Solar will designate at least one public liaison and will publicize a toll-free telephone number and email address for public communication with the public liaison.

1.4. Books and Records.

1.4.1 Records. CC Solar shall keep records of the maintenance and operations of the Solar Facility, including, but not limited to, the quantity of power generated, per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility based on submissions by CC Solar to the interconnecting utility. The County shall have the right to inspect and audit the same insofar as the records pertain to the operation of the Solar Facility.

1.4.2. Report. CC Solar shall prepare and submit to the Board an annual report, and if requested by the Board a quarterly report, which shall provide a summary of the maintenance and operation of the Solar Facility, including, but not limited to, the quantity of power generated per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility based on submissions by CC Solar to the interconnecting utility. A representative of CC Solar shall meet with the Board annually to deliver the annual report and to discuss the Solar Facility operations; all issues, concerns, or non-compliance reports; complaints and their resolution; and other items as requested by the County. Notwithstanding the foregoing, there is no expectation that the annual report or any quarterly report contain, or that any representative of CC Solar be asked to discuss in a public forum, any proprietary or trade secret information, the disclosure of which would be detrimental to CC Solar.

1.4.3 Confidentiality. All records of the maintenance and operations of the Solar Facility shall be confidential and proprietary information protected from disclosure under this Agreement. Any such confidential information required to be submitted to the Board or the County in a report or audit, shall be placed in a technical exhibit to such report or audit, marked “confidential information” and protected from disclosure.

1.5. Permits and Approvals.

1.5.1 As part of the process to obtain approval to construct, own, and operate the Solar Facility, CC Solar has applied to the County for the Special Exception Permit as set forth in Article XV, Section 23 of the County’s Zoning Ordinance. The Special

Exception Permit shall set forth the terms and conditions upon which the Solar Facility may be constructed, operated, and decommissioned, which conditions are attached hereto as **Exhibit C**, and are incorporated and made a part of this Agreement as if fully set forth herein. All requirements and conditions approved by the Caroline County Board of Supervisors contained in the Special Exception Permit shall be fulfilled and adhered to by CC Solar in connection with the Solar Facility. Nothing herein shall guarantee approval or continuation of Special Exception Permit any other special exception permit for the Property.

1.5.2 If the Special Exception Permit is approved by the Board, violation by CC Solar or by any of CC Solar's agents, assigns, or successors in interest of any terms and conditions of the Special Exception Permit or of any other applicable zoning requirements shall constitute a violation of this Agreement and of the Special Exception Permit. Pursuant to Virginia Code § 15.2-2316.9, as amended, this Agreement shall not affect the authority of the County to enforce its ordinances and regulations, to the extent that they are not inconsistent with the terms and Agreement.

1.5.3 Approval of this Agreement by the Board shall deem the Project to be substantially in accord with the County's Comprehensive Plan, thereby satisfying the requirements of Virginia Code § 15.2-2232, as amended.

1.5.4 The County will make available to CC Solar, upon request, access to all publicly available records and data in its possession or control pertaining to the Solar Facility. The County will process expeditiously requests for permits and other approvals required by County ordinances. The Board will take no action intended to frustrate or prevent CC Solar from receiving and maintaining any license, approval, or permit that is consistent with the applicable ordinances and zoning. Provided however, nothing herein shall be construed to require the Board to exercise any legislative function in favor of CC Solar.

1.5.5 Site construction shall be in accordance with all licenses, approvals, and permits, including, but not limited to, the Special Exception Permit and the Final Site Plan.

SECTION 2. OPERATIONS AND MAINTENANCE.

CC Solar will assume all liabilities and duties for compliance with all applicable laws, regulations, and ordinances, licenses, approvals, and permits applicable to the Solar Facility. CC Solar will operate the Solar Facility in compliance with all applicable laws, regulations, ordinances, licenses, approvals, and permit requirements.

SECTION 3. FEES, PAYMENTS, AND CONTRIBUTIONS

3.1 Cost Reimbursement.

CC Solar will reimburse the County within thirty (30) days of the date of each invoice from the County all reasonable costs and fees incurred for professional services engaged for purposes of assisting the County during the application process and during construction, including, but not limited to, legal fees and consulting fees, except (a) legal fees shall not be assessed to CC Solar after construction commences unless as otherwise provided in this Agreement or the Special Exception Permit; and (b) legal fees incurred by the County in conducting inspections provided for in the Special Exception Permit and in defending any approval of the Project shall be refunded by CC Solar to the County, in full, and are not subject to the cost reimbursement cap. Otherwise, this cost reimbursement shall not exceed Fifty Thousand Dollars (\$50,000). The purpose of the reimbursement payments is to defray the costs and expenses incurred by the County in connection with (i) the negotiation and execution of this Agreement and other matters related to this Agreement, (ii) the zoning and permitting processes related to the approval of the Solar Facility, (iii) the permitting process with federal and state agencies, as applicable, and (iv) the construction of the Solar Facility, including, but not limited to, fees incurred to employ professionals to assist with inspections. Should the Special Exception Permit application submitted by CC Solar for the Project not be approved by the County, no reimbursement under this paragraph will be owed by CC Solar to the County.

3.2 Emergency Resources.

CC Solar will reimburse the County within thirty (30) days of the date of each invoice from the County all reasonable costs and fees incurred by local fire and rescue personnel in the event that a fire or similar event occurs at the Solar Facility.

3.3 Solar Revenue Share.

The County has adopted an ordinance pursuant to Virginia Code § 58.1-2636, as amended, for the assessment of the maximum permissible Solar Revenue Share per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility based on submissions by the Solar Facility owner to the interconnecting utility, on any solar photovoltaic (electric energy) project. CC Solar agrees to make Solar Revenue Share payments to the County pursuant to the ordinance and shall, at all times, be subject to assessments levied in accordance with the ordinance adopted pursuant to Virginia Code § 58.1-2636, as that ordinance may from time to time be amended.

3.4 Voluntary Payment.

Pursuant to Virginia Code § 15.2-2316.7(B), as amended, and in an effort to be a good community partner with the County, CC Solar hereby agrees to pay the sum of One

Million, Five Hundred Thousand Dollars (\$1,500,000.00) to the County as financial compensation to the County to address capital needs and critical infrastructure, and/or assist in the deployment of broadband in the County (the “**Voluntary Payment**”) payable as follows:

- 3.4.1. The initial sum of One Hundred Thousand Dollars (\$100,000.00) will be paid to the County by CC Solar within one hundred and eighty (180) days after approval of the Special Exception Permit.
- 3.4.2. An additional sum of One Hundred and Fifty Thousand Dollars (\$150,000.00) will be paid to the County by CC Solar within thirty (30) days after approval of the Final Site Plan and the issuance of all permits needed to commence construction (the “**Construction Approval Payment**”).
- 3.4.3. The balance of the Voluntary Payment, equal to the sum of One Million, Two Hundred Fifty Thousand Dollars (\$1,250,000.00) will be paid to the County by CC Solar within ninety (90) days after the Synchronization Date (the “**Synchronization Payment**”).
- 3.4.4. The Parties acknowledge that CC Solar’s obligation to make the Construction Approval Payment shall be conditioned upon the Final Site Plan being approved. The Parties acknowledge that CC Solar’s obligation to make the Synchronization Payment shall be conditioned upon the Project achieving and maintaining Commercial Operation.
- 3.4.5. The County plans to apply the Voluntary Payment to critical infrastructure projects to improve citizen quality of life, including but not limited to expanding educational opportunities, health care (telehealth), teleworking and economic development through significant investments in broadband deployment throughout the County. Notwithstanding the foregoing, the Voluntary Payment may be used for any purpose permitted by law, including but not limited to, any of the following purposes: (a) to fund the capital improvement plan of the County; (b) to meet needs of the current fiscal budget of the County; (c) to supplement the County’s fiscal fund balance policy; and (d) to support broadband funding, all as permitted by § 15.2-2316.7.

SECTION 4. CLOSURE AND DECOMMISSIONING

4.1 Notice of Decommission.

CC Solar shall provide a Notice of Decommissioning to the County Solar Facility Liaison and the County’s notice parties under this Agreement within thirty (30) days of a determination to cease operation of the Solar Facility.

4.2 Decommissioning Plan and Activities

4.2.1 Prior to the commencement of construction, CC Solar shall submit to the County and receive County approval of a Decommissioning Plan. CC Solar shall comply with all terms and conditions of the Decommissioning Plan as approved by the County. The Decommissioning Plan at a minimum shall include provisions regarding the following:

4.2.1.1 Specifications for the removal of all solar equipment, buildings, cabling, electrical components, foundations, pilings, and fencing.

4.2.1.2 A requirement that all Site real property must be restored to the condition of the property as of the date construction commences.

4.2.1.3 A requirement that the Site must be stabilized so as to adequately control, prevent, and minimize any and all erosion or sediment runoff, consistent with the approved erosion and sediment control plan.

4.2.1.4 A requirement that prior to stabilization, all soils compacted by the Decommissioning Activities or by construction or operation of the Solar Facility, except gravel roads and paths established for the operation of the Site, shall be de-compacted, scarified, and restored six (6) inches in depth.

4.2.2 Decommissioning shall begin immediately upon the earlier of the Termination Date or when the Solar Facility has, for a period of twelve (12) continuous months, ceased operating as a solar energy facility collecting energy and then transferring and distributing it to the Grid, and shall be diligently pursued, as determined by the County in its reasonable discretion, and completed within eighteen (18) months from the Decommissioning commencement date. Prior to its expiration, the County may extend this eighteen (18) month Decommissioning period by six (6) months if the County finds, in its reasonable discretion, that the operator commenced Decommissioning the Solar Facility diligently and continuously worked to Decommission the Solar Facility and Site throughout the Decommissioning period and is reasonably expected to complete the Decommissioning within the additional six (6) month period. CC Solar shall be responsible for payment of all costs and expenses associated with Decommissioning.

4.2.3 Periods during which the Solar Facility is not operational for maintenance, repair, or due to catastrophic events beyond CC Solar's control, during which CC Solar works diligently to return the Solar Facility to operating status, shall not trigger the Decommissioning requirements herein. CC Solar shall provide written notice and evidence of the above to the County Administrator during the period in which the Solar Facility is not operational. Such notice shall identify the last day on which the Solar Facility was operational. Regardless of the efforts of CC Solar to

return the Solar Facility to operational status, if the Solar Facility does not operate as a solar energy facility collecting energy and then transferring and distributing it to the Grid after the catastrophic event for a period of two (2) years, the Special Exception Permit shall be void and CC Solar shall commence Decommissioning no later than the 730th day after the last day the Solar Facility was operational.

- 4.2.4** The obligations under this Agreement shall be binding on CC Solar's authorized successors and assigns as well as any authorized lessee or sublessee of CC Solar, licensee or operator of the Solar Facility and, if the ownership of the Property is ever conveyed to an individual or entity other than CC Solar, upon any such successor in title of CC Solar, which shall execute an acknowledgment of its obligations hereunder prior to closing. CC Solar shall provide written notice to the County of any change of ownership, lessee, assignee, or party responsible for Decommissioning of the Solar Facility, or change in any part of the contact information, within five (5) business days of such change.

4.3 Surety for Costs of Decommissioning

- 4.3.1** If Decommissioning Activities are not completed within the allotted time following the date the Project is Abandoned, or if the Decommissioning Activities fail to return the condition of the Property to the condition required by the approved Decommissioning Plan, such failure constitutes a Default hereunder. In the event of a Default, the County may, but is in no way obligated to, complete or have completed the Decommissioning Activities required under the terms of the Decommissioning Plan and recover all costs of completing those Decommissioning Activities from the financial surety provided by CC Solar, and if such proceeds from such surety are not sufficient to complete activities required under the Decommissioning, directly from CC Solar and the Property owner, jointly and severally (if the Property is ever conveyed to an individual or entity other than CC Solar).

- 4.3.2** To secure the costs of Decommissioning, CC Solar shall at all times, beginning at Commercial Operation and until the completion of activities required under the Decommissioning Plan, provide financial surety in a form and in an amount approved by the County. Such surety shall be one and the same surety required of CC Solar under this Agreement, the Conditions and the Ordinance. CC Solar shall not be required to post multiple or duplicative sureties for decommissioning.

- 4.3.3** The amount of the surety required shall be 100% of the estimated Decommissioning costs, such to be determined as required by the Caroline County Zoning Ordinance and the Special Exception Permit at each Surety Review Date. The estimated costs and surety to meet the above requirements shall be reviewed by the County Administrator on each Surety Review Date, at which time the County Administrator shall determine if the estimates adequately reflect the Decommissioning costs, and that the surety will guarantee performance. Should the County Administrator determine that estimated costs and surety are

insufficient, the County Administrator shall hire its own professional engineer to certify and seal its estimate of adequate Decommissioning costs. CC Solar shall reimburse the County for costs of such second engineers estimate. The County shall provide a copy of such second estimate to CC Solar. CC Solar shall adjust the surety to an amount equal to the higher of the two estimates within sixty (60) days following the Surety Review Date.

4.3.4 Surety must be provided in the form of a cash bond deposited with the County; by an irrevocable letter of credit provided for the County's benefit; or by a surety bond listing the County as the obligee, as otherwise provided in Virginia Code § 15.2-2241.2, as amended, as follows:

4.3.4.1 A cash bond shall be in the form of a cashier's check or certified check deposited with the County which has cleared all issuing institutions. Any interest accruing on such funds shall be added to the total amount and retained by the County for Decommissioning. The deposit shall be accompanied by a letter agreement, acceptable to, and issued by, the County Administrator, confirming that the cash deposit is to be held by the County to ensure the performance of the Decommissioning Activities required herein.

4.3.4.2 An irrevocable letter of credit shall mean an instrument provided by a lending institution satisfactory to the County guaranteeing payment to the County within seventy-two (72) hours of the County's written notice to the institution of a Default hereunder and demand to the institution for the funds. The letter of credit shall have no expiration date or required renewal and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn or cancelled by CC Solar before the Decommissioning Activities required herein is completed or the amount guaranteed has been fully drawn by the County. The letter of credit shall require that the County be notified six (6) months prior to any cancellation or alteration of the letter of credit by a party other than CC Solar. Should the County receive notice that the letter of credit will be cancelled or otherwise become unavailable or decrease, or should this Special Exception Permit be revoked, lapse, expire or be voided, the County may, immediately draw down the entirety of the letter of credit and convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the irrevocable letter of credit.

4.3.4.3 A surety bond shall mean a bond issued by a company with an AM Best rating of A-, that is treasury listed, and that is licensed to do business in the Commonwealth of Virginia. The surety bond shall list the County as an obligee and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn or cancelled by CC Solar before the Decommissioning Activities required herein and required by the terms of

the Decommissioning Plan are completed or the amount guaranteed has been fully paid to the County. The surety bond shall require that the County be notified six (6) months prior to any cancellation or alteration of the bond. Should the County receive notice that the surety bond will be cancelled or otherwise become unavailable or decrease below the limits required herein, or should the Special Exception Permit be revoked, lapse, expire or be voided, the County may, immediately file a claim, for the entirety of the amount of the bond, the guarantor shall pay the amounts guaranteed and the County shall convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the surety bond.

4.3.5 If the County elects to expend the surety funds to undertake Decommissioning at CC Solar's expense following its default hereunder, the County shall provide written notice of such election to CC Solar and the person identified as owner of the Property in the land records of Caroline County as of the date of the notice (if a different individual or entity). Within six (6) months of the completion of the Decommissioning Activities required herein, as confirmed by the County Administrator, the surety shall be released by the County and any amounts remaining after full and final payment of all amounts expended by the County as allowed herein, if any, shall be released and paid to the person identified as owner of the Site in land records of Caroline County as of the date of the completed Decommissioning or as otherwise directed by that owner of the Site.

4.3.6 Should the Special Exception Permit be revoked, lapse, expire, or be voided, and CC Solar is in default in performing its Decommissioning responsibilities the County may immediately draw down all of the surety funds and convert them into a cash bond for purposes of Decommissioning as set forth hereunder and as set forth in the Decommissioning Plan. In such case, no contractual agreement shall be required for the cash bond. This shall be reflected in the surety provided. Funds drawn down from the surety by the County shall be used for Decommissioning activities.

4.3.7 Should the funds guaranteed for the Decommissioning Activities for any reason not be sufficient for the County to complete the Decommissioning Activities as allowed for herein and as set forth in the Decommissioning Plan, CC Solar (and, if a different entity, the Property owner) shall be and shall remain liable to the County for the difference between the guaranteed funds and the amounts required to Decommission the Solar Facility and shall pay the difference to the County upon demand. The Parties agree that any such amount which remains unpaid shall constitute a lien against the Property ranking on parity with liens for unpaid taxes and enforceable in the same manner as provided in Articles 3 and 4 of Chapter 39 of Title 58.1, Code of Virginia, 1950, as amended. The County shall not be liable to any party in any way for the funds drawn pursuant to the conditions set out herein and expended in relation to Decommissioning. Should CC Solar fail to timely complete Decommissioning Activities after the Site is Abandoned, or

should the Special Exception Permit be revoked, lapse, expire, or be voided and Decommissioning Activities not be diligently undertaken or performed by CC Solar pursuant to this Agreement, and the County elects to draw down the funds for the purpose of performing the Decommissioning Activities and mobilize its contractors to perform the Decommissioning Activities or otherwise incur liability to its contractors for the performance of the Decommissioning Activities, CC Solar shall have no right or obligation to perform the Decommissioning Activities unless specifically authorized by the County in writing. If the County draws down the funds from the surety, those funds shall be primary for the payment of Decommissioning costs whether such are performed for the County or by CC Solar pursuant to an agreement for such work acceptable to the County.

4.3.8 CC Solar shall immediately, upon written demand by the County or any person or entity authorized to act on behalf of the County, grant or release to the County, or any person or entity authorized to act on behalf of the County, under terms deemed acceptable by the County, all necessary real property rights, personal property rights, either or both, as determined solely by the County, other than fee simple ownership or a leasehold interest of the Property, so that the County or any person or entity authorized to act on behalf of the County may undertake any required Decommissioning Activities that have not otherwise been performed as required. This shall include, but may not be limited to, releasing any interest in the personal property, facilities, fixtures, and structures which are to be removed and recycled, disposed of, or otherwise demolished.

4.3.9 If following completion of Decommission Activities pursuant to the terms hereof, the County shall hold any remaining surety or proceeds from surety posted by CC Solar, the County shall promptly return or refund such surety and/or proceeds as directed by CC Solar.

SECTION 5. MISCELLANEOUS

5.1 Compliance with Laws.

CC Solar shall operate and Decommission the Solar Facility in compliance with all applicable federal and state laws, regulations, approvals, permits, and the terms of this Agreement. In the event that CC Solar is notified of any violation at the Solar Facility of any applicable federal or state law, regulation, approval, or permit, CC Solar shall promptly notify the County of said violation, (b) diligently cooperate with the applicable regulatory agency, and (c) take all reasonable and necessary actions to attempt to cure the violation. CC Solar shall comply with all applicable laws, regulations, approvals, rules, and ordinances.

5.2 Insurance.

CC Solar will obtain and maintain in effect comprehensive general liability insurance and prior to starting construction and throughout the construction operation and decommissioning of the Solar Facility CC Solar shall obtain or will require its contractor to obtain and maintain pollution liability insurance with minimum coverage limitations of \$2,000,000 per occurrence and \$5,000,000 annual aggregate; employer's liability/workers' compensation insurance with a minimum coverage limitation of \$1,000,000 per accident; property and casualty insurance on a replacement value basis with minimum coverage limitation of \$5,000,000 per occurrence; and such other insurance for the Solar Facility as may be required by law. The County shall be listed as an additional insured on the comprehensive general liability insurance policies in connection with any event or occurrence arising from the Solar Facility.

5.3 Notification.

Within thirty (30) days of CC Solar's receipt of same, CC Solar will notify the County of any material warning letters, notices of violation, revocation of a permit or approval, or any other notices of enforcement action from governmental authorities resulting from operation of the Solar Facility concerning the environment or life and safety issues.

5.4 Term; Modification.

5.4.1 This Agreement shall become effective upon execution and shall remain in effect until the Solar Facility is completely Decommissioned, all Decommissioning Activities are complete and approved, and all leases with landowners of the Site are terminated, or by a subsequent written agreement of the Parties.

5.4.2 CC Solar will notify the County, in writing, at least one hundred eighty (180) days prior to permanently ceasing the generation of power at the Solar Facility if the decision to permanently cease operations is made while the Solar Facility is still operating.

5.4.3 This Agreement may be modified only by an instrument in writing, executed by the Parties.

5.4.4 This Agreement contains the entire Agreement between the Parties with respect to the subject matter hereof. This Agreement supersedes any prior written or oral agreements and understandings between the Parties as to the subject matter hereof.

5.5 Transferability of Agreement.

No assignment of this Agreement or any right accruing under this Agreement, other than a collateral assignment as security for project financing, shall be made by CC Solar to any entity which is not a Related Entity without the express written consent of the County, which consent shall not be unreasonably withheld. In the event of any assignment, the assignee shall fully assume all of the liabilities and obligations of CC Solar under this Agreement. The surety provided by CC Solar hereunder shall remain in place until a satisfactory substitute surety is provided by the assignee in accordance with the terms of the Agreement. Any assignment, other than as permitted by this Section, without the consent of the County, shall be void.

5.6 Default.

5.6.1 This Agreement may be terminated by the County in the event of a material breach of this Agreement by CC Solar that has not been cured within sixty (60) days of written notice thereof being received by CC Solar; provided, however, if any such breach cannot be reasonably cured within such period, CC Solar shall be afforded an addition period, not to exceed one hundred eighty (180) days, to complete such cure provided that CC Solar commences such cure within such sixty (60) day period and continuously and diligently pursues such cure thereafter. If CC Solar initiates a cure within such period, the Agreement shall not terminate. A material breach shall mean a failure to comply with (1) any of the provisions of this Agreement in any material respect, (2) the permits and approvals under which the Solar Facility will be operated or built, or (3) applicable federal or state laws, approvals, or regulations. A material breach shall also include the insolvency of CC Solar or its assignee, such insolvency to be established by the filing of either a voluntary petition in bankruptcy showing CC Solar as the debtor or an involuntary petition that is not dismissed within one hundred eighty (180) days of its filing. A material breach shall also include a violation of the Special Exception Permit issued to CC Solar, written notice of which is received by CC Solar. Provided, however, CC Solar's complying or taking action consistent with any governmental or regulatory warning letter, notice of violation, or plan of action shall be deemed a cure if the compliance or the action is initiated by CC Solar within sixty (60) days of CC Solar receiving the warning letter, notice of violation, or action plan. CC Solar's failure after receiving written notice to resolve as soon as practically possible, a material breach that state or federal authorities determine threaten the safety of the public or threatens to cause material environmental damage, shall entitle the County to enter upon the Site and take action, at CC Solar's expense, to eliminate or mitigate such threat upon CC Solar's failure to act as soon as practically possible. Further, the County may terminate this Agreement effective immediately if CC Solar fails to pay an amount due under this Agreement within thirty (30) days of receiving from the County written notice of the failure to pay. Provided, however, if a dispute exists as to whether an amount is owed or CC Solar has otherwise breached or failed to comply with this Agreement, CC Solar may seek a declaratory judgment or other appropriate action in Caroline

County Circuit Court. If the dispute involves an amount owed by CC Solar to the County, CC Solar may submit any disputed amount to the Clerk of the Caroline County Circuit Court. The cure period and any termination of this Agreement shall be extended and tolled pending a decision by the Circuit Court on CC Solar's declaratory judgment or other action it filed.

5.6.2 In the event of a breach and the appropriate notice thereof to CC Solar by the County, the cure periods noted above may be extended at the sole discretion of the County without the County waiving its right to terminate the Agreement at any time prior to the cure being made by CC Solar.

5.7 Indemnification of County

If a third-party files a lawsuit, counterclaim, or crossclaim against a County relating to this Agreement, the County is entitled to all reasonable attorneys' fees, litigation expenses, and court costs to be reimbursed by CC Solar. CC Solar shall also indemnify and save harmless the County from and against all liabilities, claims, demands, damages, penalties, suits, actions, fines, losses, reasonable costs and expenses (including, without limitation, attorney's fees) arising from (a) any personal injury or damage to property occurring on or about the Property arising from the construction, operation or decommissioning of the Solar Facility, or (b) the exercise and performance by the County of the Decommissioning Activities addressed hereunder, but only to the extent of actual damages paid by the County pursuant to a final decision of a court of competent jurisdiction, which decision has become final and unappealable.

5.8 Notice.

To be effective under this Agreement, written notice by the Parties shall be delivered by hand or by certified mail, return receipt requested, as follows unless and until a Party is notified by the other of a change in recipient and/or address:

To CC Solar: CC Solar, LLC
Urban Grid Solar Projects
Attn: Compliance
337 Log Canoe Circle
Stevensville, MD 21666

With a copy to: FutureLaw II, LLC
Attn: Roger G. Bowers, Esquire
5516 Falmouth Street, Suite 200
Richmond, Virginia 23230

If to the County: Office of the Caroline County Administrator
Attn: Charles Culley
P.O. Box 447
Bowling Green, Virginia 22427

With a copy to: Caroline County Attorney
Attn: Christopher M. Mackenzie, Esquire
Sands Anderson, PC
1111 East Main Street, Suite 2400
Caroline, Virginia 23219

5.9 No Third Party Beneficiaries.

This Agreement is solely for the benefit of the named Parties hereto and their respective successors and permitted assigns, and no third-party beneficiaries are created or intended to be created hereby.

5.10 Severability.

If any provision of this Agreement shall be declared void or unenforceable, the remaining provisions shall not be affected but shall continue in full force and effect. If, for any reason, including a change in applicable law, it is ever determined by any court or governmental authority of competent jurisdiction that this Agreement is invalid then the Parties shall, subject to any necessary County meeting vote or procedures, undertake reasonable efforts to amend and or reauthorize this Agreement so as to render the invalid provisions herein lawful, valid and enforceable. If the Parties are unable to do so, this Agreement shall terminate as of the date of such determination of invalidity, and the Site and Project will thereafter be assessed and taxed as though this Agreement did not exist. The Parties will cooperate with each other and use reasonable efforts to defend against and contest any challenge to this Agreement by a third party.

5.11 Force Majeure.

No Party shall be responsible for its failure to fulfill an obligation pursuant to this Agreement to the extent that such failure is due to acts of God; labor strikes; war or terrorism; epidemics/pandemics as declared by executive order of the Governor of the Commonwealth of Virginia; fires; and floods. A Party experiencing a force majeure event that prevents fulfillment of a material obligation hereunder shall (a) give the other Party prompt written notice describing the particulars of the event; (b) suspend performance only to the extent and for the duration that is reasonably required by the force majeure event; (c) use reasonable efforts to overcome or mitigate the effects of such occurrence; and (d) promptly resume performance of the affected obligation if and when such Party is able to do so.

5.12 Mutual Covenants.

CC Solar covenants to the County that it will pay the County the amounts due hereunder when due in accordance with the terms of this Agreement, and will not seek to invalidate this Agreement, or otherwise take a position adverse to the purpose or validity of this

Agreement. So long as CC Solar is not in breach of this Agreement during its Term, the County covenants to CC Solar that it will not seek to invalidate this Agreement or otherwise take a position adverse to the purpose or validity of this Agreement.

5.13 Memorandum of Agreement.

A memorandum of this Agreement, in a form acceptable to the County Attorney, shall be recorded by CC Solar in the land records of the Clerk's Office of the Circuit Court of the County of Caroline, Virginia by CC Solar. Such recordation shall be at the CC Solar's sole cost and expense and shall occur as soon as reasonably practicable after the full execution of this Agreement. If CC Solar chooses not to develop the Project, in its sole discretion, the County shall execute a release of any memorandum filed in the aforementioned Clerk's Office.

5.14 Confidentiality.

This Agreement, once placed on the docket for consideration by the Caroline County Board of Supervisors, is a public document, subject to production under the Freedom of Information Act ("FOIA"). The County understands and acknowledges CC Solar, and as applicable, its associates, contractors, partners and affiliates utilize confidential and proprietary "state-of-the-art" information and data in its operations ("**Confidential Information**"), and that disclosure of any such information, including, but not limited to, disclosures of technical, financial or other confidential information concerning CC Solar or any Related Entity could result in substantial harm to it and could thereby have a significant detrimental impact on its employees and also upon the County. The County acknowledges that during the development of this Agreement, certain Confidential Information may be shared with the County by CC Solar. The County agrees that, except as required by law, including FOIA, and pursuant to the County's police powers, neither the County nor any employee, agent or contractor of the County will (i) knowingly or intentionally disclose or otherwise divulge any such confidential or proprietary information to any person, firm, governmental body or agency, or any other entity unless the request for Confidential Information is made under a provision of local, state or federal law. Upon receipt of such request but before transmitting any documents or information which may contain Confidential Information, the County will contact CC Solar to review the request for information and associated documents to determine if any Confidential Information is at risk of disclosure, to the extent possible in complying with FOIA. If Confidential Information exists, CC Solar may intervene on behalf of the County and defend against disclosure of the Confidential Information. The County agrees to cooperate in this defense and to the extent allowed by law, work to protect the Confidential Information of CC Solar. CC Solar agrees that any Confidential Information provided after the Effective Date of this Agreement shall be marked "Confidential Information" in accordance with Section 1.4.3.

5.15 Governing Law; Jurisdiction; Venue.

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to any of its principles of conflicts of laws or other laws which would result in the application of the laws of another jurisdiction. The

parties hereto (A) agree that any suit, action, or other legal proceedings, as between the parties hereto, arising out of or relating to this agreement, shall be brought and tried only in the Circuit Court of Caroline County, Virginia, (B) consent to the jurisdiction of such court in any such suit, action or proceeding, and (C) waive any objections which any of them may have to the laying of venue or any such suit, action, or proceeding in such court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. The parties hereto agree that a final judgment in any such suit, 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.

5.16 Counterparts; Electronic Signatures.

This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail/PDF or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

5.17 Headings and Recitals.

The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement. The Recitals above are incorporated into this Agreement as if fully set forth therein.

5.18 No Presumption in Favor of a Drafter of this Agreement.

The Parties recognize that both Parties are represented by counsel and in the event of a dispute between the Parties regarding the terms of this Agreement, and therefore agree that the terms and conditions contained herein comply in all respects with controlling law and that there shall be no presumption in favor of or against either Party as a drafter of this Agreement.

[Signatures Appear on the Following Pages]

WHEREFORE, the undersigned, having been duly authorized to bind their respective principals, do set their hands to this Agreement as of the Effective Date.

CAROLINE COUNTY, VIRGINIA

Date: _____

By: _____

Charles Culley, County Administrator Caroline
County, Virginia

Approved as to Form:

Sands Anderson P.C.

By: _____

Caroline County Attorney

DRAFT

CC SOLAR, LLC
a Virginia limited liability company

Date: _____

By: _____
E. Franklin DePew, Chief Executive Officer

Date: _____

By: _____
Mark Scanlan, Chief Financial Officer

DRAFT

**EXHIBIT A
(Tax Parcels)**

County Tax Map Numbers:

28-A-6
28-A-7
28-A-8
28-A-10 (easement only)
28-A-39
28-A-11
40-A-21
40-A-23
40-A-26
40-A-74
40-A-75
40-A-76
40-A-79
40-A-85
40-A-86
40-A-87
40-A-88
40-A-89
40-A-19A
40-3-1A
40-3-2
40-3-3
40-3-4
40-3-4A
40-3-1
41-A-1
41-A-2
41-A-3
41-A-4
41-A-5
41-A-6
41-A-7
41-A-8

DRAFT

EXHIBIT B
(Development Plan)

CC Solar Special Exception Permit, Preliminary Site Plans, dated February 17, 2021, Exhibit D to the Special Exception Permit Application, consisting of nine (9) sheets, prepared by Timmons Group, incorporated herein by this reference.

DRAFT

EXHIBIT C
(Special Exception Permit Conditions)

DRAFT

SOLAR SITING AGREEMENT

**CC SOLAR, LLC,
AND THE COUNTY OF CAROLINE, VIRGINIA**

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Exhibit B – Development Plan

Exhibit C – Special Exception Permit Conditions

DRAFT

SOLAR SITING AGREEMENT

This Solar Siting Agreement (“**Agreement**”) dated as of September 13, 2022, between Caroline County, Virginia, a body politic and political subdivision of the Commonwealth of Virginia (the “**County**”); and CC Solar, LLC, a Virginia limited liability company, and its successors and assigns (“**CC Solar**”) (singularly, a “**Party**” and, collectively, the “**Parties**”), recites and provides as follows:

RECITALS

R-1. CC Solar intends to develop, install, build, and operate a ground-mounted solar photovoltaic electric generating facility (the “**Project**”) on certain parcel(s) of land identified as Caroline County tax map parcel nos. identified on Exhibit A (the “**Property**” or the “**Site**”).

R-2. CC Solar owns, has acquired, or shall acquire the Property, which contains a total of approximately 1,682.3 acres and is more fully described on the Development Plan which is attached hereto as Exhibit B, and to which Development Plan reference is hereby made for a more complete and accurate description of the Property.

R-3. CC Solar or its agent or contractors will apply to all federal, state, and local regulating authorities and will seek to obtain all licenses, approvals, and permits required by law, regulation, or ordinance for the construction and operation of the Solar Facility (as hereinafter defined).

R-4. After all licenses, approvals, and permits are issued to CC Solar, CC Solar will commence operations of the Solar Facility in accordance with the terms of this Agreement; applicable building and zoning regulations; applicable special exception permit conditions; and all federal, state, and local laws, ordinances, and regulations.

R-5. Virginia Code § 15.2-2316.7, requires that each applicant for a solar facility shall meet, discuss, and negotiate a siting agreement with the locality. The County and CC Solar intend to, and do, hereby enter into this Agreement for the purpose of complying with Virginia Code § 15.2-2316.7 and to set forth their respective rights, duties, and obligations.

R-6. Pursuant to Virginia Code § 58.1-2636 the County has adopted an ordinance assessing the maximum permitted revenue share per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility (“**Solar Revenue Share**”).

R-7. Pursuant to Virginia Code § 58.1-3660, in adopting the Solar Revenue Share, the solar photovoltaic (electric energy) systems associated with the Project, which are considered “certified pollution control equipment” are exempt from all state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia (the “**Tax Exemption**”).

R-8. CC Solar, as set out in this Agreement, has agreed to make a voluntary payment to the County, above and beyond its tax obligations and the Solar Revenue Share, as a meaningful

way to be a community partner in the County and to help address capital and operational needs of the County in accordance with Virginia Code § 15.2-2316.7(B).

R-9. CC Solar, pursuant to the Solar Revenue Share and the Tax Exemption, has agreed to the payments and financial terms contained herein.

R-10. The County, pursuant to the requirement of Virginia Code § 15.2-2316.8(B), has held a public hearing in accordance with subdivision A of Virginia Code § 15.2-2204 for the purpose of considering this Agreement, after which a majority of a quorum of the members of the Caroline County Board of Supervisors (the “**Board**”) approved this Agreement.

NOW, THEREFORE, pursuant to Chapter 22, Title 15.2, Article 7.3 of the Code of Virginia, as amended, intending to be legally bound hereby and in consideration of the mutual obligations and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

DEFINITIONS

“**Abandoned**” means the discontinuation of power generation by the Solar Facility for a period of twelve (12) continuous months as set out in the Special Exception Permit.

“**Board**” means the Board of Supervisors of Caroline County, Virginia.

“**Commercial Operation**” means the establishment of Grid synchronization and operation to continuously deliver electrical energy output from Solar Facility to the Grid (not test energy), the commencement of which shall be the “Synchronization Date”.

“**County Administrator**” means the county administrator of Caroline County, Virginia.

“**Decommission**”, “**Decommissioned**”, “**Decommissioning**” or “**Decommissioning Activities**” means the work necessary to remove the Solar Facility improvements from the Property, restore the Property as required by the Caroline County Zoning Ordinance and the Special Exception Permit, and to otherwise comply with the Decommissioning Plan.

“**Decommissioning Plan**” means the plan for Decommissioning Activities submitted by CC Solar and approved by the County.

“**Development Plan**” means the detailed drawing showing all equipment, landscaping, roads, retention facilities, fencing, buffers, and other changes or improvements to be made to the Property for the development of the Project, attached hereto as **Exhibit B**, and incorporated herein by reference.

“**Effective Date**” means the date on which all signatures have been secured on this Agreement.

“Final Site Plan” means the detailed drawing showing all equipment, excavation, landscaping, and other changes or improvements to be made to the Property for the development of the Project which is to be administratively reviewed and approved by the Caroline County Department of Planning and Community Development and other required departments and agencies of the Commonwealth of Virginia.

“Grid” means the interconnected network for delivering electricity from producers to consumers (consisting of generating stations, electrical substations, high voltage transmission lines, and distribution lines that connect individual customers) to which the Project is connected and provides power.

“Related Entity” or **“Related Entities”** means any entity that is controlled by, controls or under common control with CC Solar.

“Solar Facility” means the Site together with all equipment, apparatus, or other items of personal property used for the construction, operation, or Decommissioning of the Project.

“Special Exception Permit” means the permit granted by the County to CC Solar for the development of the Project, as attached in **Exhibit C**.

“Surety Review Date” means the date by which the cost estimate in the Decommissioning Plan shall be updated every five (5) years pursuant to the Caroline County Zoning Ordinance and the approved Decommissioning Plan.

“Term” means the period beginning on the last date on which this Agreement is executed by the last Party to sign and ending on the date when Decommissioning is complete.

“Termination Date” means the earlier of (i) the date of CC Solar’s voluntary commencement of the Decommissioning of all or a material portion of the Project, (ii) the date the Special Exception Permit is revoked, lapses, expires, or is voided, or (iii) the date the Project is deemed Abandoned.

SECTION 1. PERMITTING, CONSTRUCTION AND ADMINISTRATION

1.1 No obligation to Develop.

CC Solar has no obligation to develop the Project. Any test energy or other energy produced prior to Commercial Operation shall not trigger Payment under Section 3. It is understood that development of the Project by CC Solar is contingent upon a number of factors, including, but not limited to, regulatory approvals, availability and cost of equipment and financing, and demand for renewable energy and renewable energy credits. No election by CC Solar to terminate, defer, suspend, or modify plans to develop the Project shall be deemed a default of CC Solar under this Agreement.

1.2 Approved Plans.

Prior to beginning construction CC Solar will submit to the County and obtain the County's approval, and all other approvals as applicable, of all of the following, in accordance with the Special Exception Permit and Article XV Section 23 of the Caroline County Zoning Ordinance, as amended:

1.2.1 The Final Site Plan (for which application shall be made within twenty-four (24) months after approval of the Special Exception Permit)

1.2.2 The Decommissioning Plan

1.2.3 An emergency response plan, which at a minimum shall include fire suppression methods that can be readily deployed during both the construction and the operation of the Project and a program of education and training for County emergency response staff covering onsite emergency response.

1.2.4 A construction traffic management plan to be approved by the Virginia Department of Transportation (VDOT), which at a minimum shall address traffic control measures, an evaluation of the condition of the public roads along the delivery routes prior to construction, and a description and estimate of any anticipated repairs to public roads necessitated by damages attributable to Project construction.

1.2.5 A stormwater management plan.

1.2.6 An erosion and sediment control plan in accordance with the County's Erosion and Sediment Control Ordinance, Caroline County Code §§ 45-1 through 45-9, as amended, the associated Erosions and Sediment Control Services Agreement, and any other controls as authorized, in accordance with the conditions of the Special Exception Permit.

1.2.7 A construction phasing plan.

1.3. Solar Facility Liaisons.

1.3.1. CC Solar will provide to the County at all times the name and contact information for at least one individual who will serve as the primary point of contact and at least one individual who will serve as the backup point of contact for the Solar Facility. Each such individual shall be known as a "Solar Facility Liaison." The Solar Facility Liaison shall be knowledgeable about the Solar Facility and its operations and shall also serve as the emergency contact for the sheriff's office, fire and rescue, and other emergency services, and will therefore be available any time (365 days a year, 24 hours a day) in the event of an emergency.

1.3.2. Subject to compliance with safety requirements prescribed by CC Solar, each Solar Facility Liaison shall have access to working areas of the Solar Facility to

ensure compliance with this Agreement and with applicable laws, regulations, and permit requirements.

1.3.3. The County will provide to CC Solar at all times the name and contact information for at least one individual who will serve as the primary point of contact and at least one individual who will serve as the backup point of contact for the County. Each such individual shall be known as a “County Solar Facility Liaison.”

1.3.4. CC Solar will designate at least one public liaison and will publicize a toll-free telephone number and email address for public communication with the public liaison.

1.4. Books and Records.

1.4.1 Records. CC Solar shall keep records of the maintenance and operations of the Solar Facility, including, but not limited to, the quantity of power generated, per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility based on submissions by CC Solar to the interconnecting utility. The County shall have the right to inspect and audit the same insofar as the records pertain to the operation of the Solar Facility.

1.4.2. Report. CC Solar shall prepare and submit to the Board an annual report, and if requested by the Board a quarterly report, which shall provide a summary of the maintenance and operation of the Solar Facility, including, but not limited to, the quantity of power generated per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility based on submissions by CC Solar to the interconnecting utility. A representative of CC Solar shall meet with the Board annually to deliver the annual report and to discuss the Solar Facility operations; all issues, concerns, or non-compliance reports; complaints and their resolution; and other items as requested by the County. Notwithstanding the foregoing, there is no expectation that the annual report or any quarterly report contain, or that any representative of CC Solar be asked to discuss in a public forum, any proprietary or trade secret information, the disclosure of which would be detrimental to CC Solar.

1.4.3 Confidentiality. All records of the maintenance and operations of the Solar Facility shall be confidential and proprietary information protected from disclosure under this Agreement. Any such confidential information required to be submitted to the Board or the County in a report or audit, shall be placed in a technical exhibit to such report or audit, marked “confidential information” and protected from disclosure.

1.5. Permits and Approvals.

1.5.1 As part of the process to obtain approval to construct, own, and operate the Solar Facility, CC Solar has applied to the County for the Special Exception Permit as set forth in Article XV, Section 23 of the County’s Zoning Ordinance. The Special

Exception Permit shall set forth the terms and conditions upon which the Solar Facility may be constructed, operated, and decommissioned, which conditions are attached hereto as **Exhibit C**, and are incorporated and made a part of this Agreement as if fully set forth herein. All requirements and conditions approved by the Caroline County Board of Supervisors contained in the Special Exception Permit shall be fulfilled and adhered to by CC Solar in connection with the Solar Facility. Nothing herein shall guarantee approval or continuation of Special Exception Permit any other special exception permit for the Property.

1.5.2 If the Special Exception Permit is approved by the Board, violation by CC Solar or by any of CC Solar's agents, assigns, or successors in interest of any terms and conditions of the Special Exception Permit or of any other applicable zoning requirements shall constitute a violation of this Agreement and of the Special Exception Permit. Pursuant to Virginia Code § 15.2-2316.9, as amended, this Agreement shall not affect the authority of the County to enforce its ordinances and regulations, to the extent that they are not inconsistent with the terms and Agreement.

1.5.3 Approval of this Agreement by the Board shall deem the Project to be substantially in accord with the County's Comprehensive Plan, thereby satisfying the requirements of Virginia Code § 15.2-2232, as amended.

1.5.4 The County will make available to CC Solar, upon request, access to all publicly available records and data in its possession or control pertaining to the Solar Facility. The County will process expeditiously requests for permits and other approvals required by County ordinances. The Board will take no action intended to frustrate or prevent CC Solar from receiving and maintaining any license, approval, or permit that is consistent with the applicable ordinances and zoning. Provided however, nothing herein shall be construed to require the Board to exercise any legislative function in favor of CC Solar.

1.5.5 Site construction shall be in accordance with all licenses, approvals, and permits, including, but not limited to, the Special Exception Permit and the Final Site Plan.

SECTION 2. OPERATIONS AND MAINTENANCE.

CC Solar will assume all liabilities and duties for compliance with all applicable laws, regulations, and ordinances, licenses, approvals, and permits applicable to the Solar Facility. CC Solar will operate the Solar Facility in compliance with all applicable laws, regulations, ordinances, licenses, approvals, and permit requirements.

SECTION 3. FEES, PAYMENTS, AND CONTRIBUTIONS

3.1 Cost Reimbursement.

CC Solar will reimburse the County within thirty (30) days of the date of each invoice from the County all reasonable costs and fees incurred for professional services engaged for purposes of assisting the County during the application process and during construction, including, but not limited to, legal fees and consulting fees, except (a) legal fees shall not be assessed to CC Solar after construction commences unless as otherwise provided in this Agreement or the Special Exception Permit; and (b) legal fees incurred by the County in conducting inspections provided for in the Special Exception Permit and in defending any approval of the Project shall be refunded by CC Solar to the County, in full, and are not subject to the cost reimbursement cap. Otherwise, this cost reimbursement shall not exceed Fifty Thousand Dollars (\$50,000). The purpose of the reimbursement payments is to defray the costs and expenses incurred by the County in connection with (i) the negotiation and execution of this Agreement and other matters related to this Agreement, (ii) the zoning and permitting processes related to the approval of the Solar Facility, (iii) the permitting process with federal and state agencies, as applicable, and (iv) the construction of the Solar Facility, including, but not limited to, fees incurred to employ professionals to assist with inspections. Should the Special Exception Permit application submitted by CC Solar for the Project not be approved by the County, no reimbursement under this paragraph will be owed by CC Solar to the County.

3.2 Emergency Resources.

CC Solar will reimburse the County within thirty (30) days of the date of each invoice from the County all reasonable costs and fees incurred by local fire and rescue personnel in the event that a fire or similar event occurs at the Solar Facility.

3.3 Solar Revenue Share.

The County has adopted an ordinance pursuant to Virginia Code § 58.1-2636, as amended, for the assessment of the maximum permissible Solar Revenue Share per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility based on submissions by the Solar Facility owner to the interconnecting utility, on any solar photovoltaic (electric energy) project. CC Solar agrees to make Solar Revenue Share payments to the County pursuant to the ordinance and shall, at all times, be subject to assessments levied in accordance with the ordinance adopted pursuant to Virginia Code § 58.1-2636, as that ordinance may from time to time be amended.

3.4 Voluntary Payment.

Pursuant to Virginia Code § 15.2-2316.7(B), as amended, and in an effort to be a good community partner with the County, CC Solar hereby agrees to pay the sum of One

Million, Five Hundred Thousand Dollars (\$1,500,000.00) to the County as financial compensation to the County to address capital needs and critical infrastructure, and/or assist in the deployment of broadband in the County (the “**Voluntary Payment**”) payable as follows:

- 3.4.1. The initial sum of One Hundred Thousand Dollars (\$100,000.00) will be paid to the County by CC Solar within one hundred and eighty (180) days after approval of the Special Exception Permit.
- 3.4.2. An additional sum of One Hundred and Fifty Thousand Dollars (\$150,000.00) will be paid to the County by CC Solar within thirty (30) days after approval of the Final Site Plan and the issuance of all permits needed to commence construction (the “**Construction Approval Payment**”).
- 3.4.3. The balance of the Voluntary Payment, equal to the sum of One Million, Two Hundred Fifty Thousand Dollars (\$1,250,000.00) will be paid to the County by CC Solar within ninety (90) days after the Synchronization Date (the “**Synchronization Payment**”).
- 3.4.4. The Parties acknowledge that CC Solar’s obligation to make the Construction Approval Payment shall be conditioned upon the Final Site Plan being approved. The Parties acknowledge that CC Solar’s obligation to make the Synchronization Payment shall be conditioned upon the Project achieving and maintaining Commercial Operation.
- 3.4.5. The County plans to apply the Voluntary Payment to critical infrastructure projects to improve citizen quality of life, including but not limited to expanding educational opportunities, health care (telehealth), teleworking and economic development through significant investments in broadband deployment throughout the County. Notwithstanding the foregoing, the Voluntary Payment may be used for any purpose permitted by law, including but not limited to, any of the following purposes: (a) to fund the capital improvement plan of the County; (b) to meet needs of the current fiscal budget of the County; (c) to supplement the County’s fiscal fund balance policy; and (d) to support broadband funding, all as permitted by § 15.2-2316.7.

SECTION 4. CLOSURE AND DECOMMISSIONING

4.1 Notice of Decommission.

CC Solar shall provide a Notice of Decommissioning to the County Solar Facility Liaison and the County’s notice parties under this Agreement within thirty (30) days of a determination to cease operation of the Solar Facility.

4.2 Decommissioning Plan and Activities

4.2.1 Prior to the commencement of construction, CC Solar shall submit to the County and receive County approval of a Decommissioning Plan. CC Solar shall comply with all terms and conditions of the Decommissioning Plan as approved by the County. The Decommissioning Plan at a minimum shall include provisions regarding the following:

4.2.1.1 Specifications for the removal of all solar equipment, buildings, cabling, electrical components, foundations, pilings, and fencing.

4.2.1.2 A requirement that all Site real property must be restored to the condition of the property as of the date construction commences.

4.2.1.3 A requirement that the Site must be stabilized so as to adequately control, prevent, and minimize any and all erosion or sediment runoff, consistent with the approved erosion and sediment control plan.

4.2.1.4 A requirement that prior to stabilization, all soils compacted by the Decommissioning Activities or by construction or operation of the Solar Facility, except gravel roads and paths established for the operation of the Site, shall be de-compacted, scarified, and restored six (6) inches in depth.

4.2.2 Decommissioning shall begin immediately upon the earlier of the Termination Date or when the Solar Facility has, for a period of twelve (12) continuous months, ceased operating as a solar energy facility collecting energy and then transferring and distributing it to the Grid, and shall be diligently pursued, as determined by the County in its reasonable discretion, and completed within eighteen (18) months from the Decommissioning commencement date. Prior to its expiration, the County may extend this eighteen (18) month Decommissioning period by six (6) months if the County finds, in its reasonable discretion, that the operator commenced Decommissioning the Solar Facility diligently and continuously worked to Decommission the Solar Facility and Site throughout the Decommissioning period and is reasonably expected to complete the Decommissioning within the additional six (6) month period. CC Solar shall be responsible for payment of all costs and expenses associated with Decommissioning.

4.2.3 Periods during which the Solar Facility is not operational for maintenance, repair, or due to catastrophic events beyond CC Solar's control, during which CC Solar works diligently to return the Solar Facility to operating status, shall not trigger the Decommissioning requirements herein. CC Solar shall provide written notice and evidence of the above to the County Administrator during the period in which the Solar Facility is not operational. Such notice shall identify the last day on which the Solar Facility was operational. Regardless of the efforts of CC Solar to

return the Solar Facility to operational status, if the Solar Facility does not operate as a solar energy facility collecting energy and then transferring and distributing it to the Grid after the catastrophic event for a period of two (2) years, the Special Exception Permit shall be void and CC Solar shall commence Decommissioning no later than the 730th day after the last day the Solar Facility was operational.

- 4.2.4** The obligations under this Agreement shall be binding on CC Solar's authorized successors and assigns as well as any authorized lessee or sublessee of CC Solar, licensee or operator of the Solar Facility and, if the ownership of the Property is ever conveyed to an individual or entity other than CC Solar, upon any such successor in title of CC Solar, which shall execute an acknowledgment of its obligations hereunder prior to closing. CC Solar shall provide written notice to the County of any change of ownership, lessee, assignee, or party responsible for Decommissioning of the Solar Facility, or change in any part of the contact information, within five (5) business days of such change.

4.3 Surety for Costs of Decommissioning

- 4.3.1** If Decommissioning Activities are not completed within the allotted time following the date the Project is Abandoned, or if the Decommissioning Activities fail to return the condition of the Property to the condition required by the approved Decommissioning Plan, such failure constitutes a Default hereunder. In the event of a Default, the County may, but is in no way obligated to, complete or have completed the Decommissioning Activities required under the terms of the Decommissioning Plan and recover all costs of completing those Decommissioning Activities from the financial surety provided by CC Solar, and if such proceeds from such surety are not sufficient to complete activities required under the Decommissioning, directly from CC Solar and the Property owner, jointly and severally (if the Property is ever conveyed to an individual or entity other than CC Solar).

- 4.3.2** To secure the costs of Decommissioning, CC Solar shall at all times, beginning at Commercial Operation and until the completion of activities required under the Decommissioning Plan, provide financial surety in a form and in an amount approved by the County. Such surety shall be one and the same surety required of CC Solar under this Agreement, the Conditions and the Ordinance. CC Solar shall not be required to post multiple or duplicative sureties for decommissioning.

- 4.3.3** The amount of the surety required shall be 100% of the estimated Decommissioning costs, such to be determined as required by the Caroline County Zoning Ordinance and the Special Exception Permit at each Surety Review Date. The estimated costs and surety to meet the above requirements shall be reviewed by the County Administrator on each Surety Review Date, at which time the County Administrator shall determine if the estimates adequately reflect the Decommissioning costs, and that the surety will guarantee performance. Should the County Administrator determine that estimated costs and surety are

insufficient, the County Administrator shall hire its own professional engineer to certify and seal its estimate of adequate Decommissioning costs. CC Solar shall reimburse the County for costs of such second engineers estimate. The County shall provide a copy of such second estimate to CC Solar. CC Solar shall adjust the surety to an amount equal to the higher of the two estimates within sixty (60) days following the Surety Review Date.

4.3.4 Surety must be provided in the form of a cash bond deposited with the County; by an irrevocable letter of credit provided for the County's benefit; or by a surety bond listing the County as the obligee, as otherwise provided in Virginia Code § 15.2-2241.2, as amended, as follows:

4.3.4.1 A cash bond shall be in the form of a cashier's check or certified check deposited with the County which has cleared all issuing institutions. Any interest accruing on such funds shall be added to the total amount and retained by the County for Decommissioning. The deposit shall be accompanied by a letter agreement, acceptable to, and issued by, the County Administrator, confirming that the cash deposit is to be held by the County to ensure the performance of the Decommissioning Activities required herein.

4.3.4.2 An irrevocable letter of credit shall mean an instrument provided by a lending institution satisfactory to the County guaranteeing payment to the County within seventy-two (72) hours of the County's written notice to the institution of a Default hereunder and demand to the institution for the funds. The letter of credit shall have no expiration date or required renewal and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn or cancelled by CC Solar before the Decommissioning Activities required herein is completed or the amount guaranteed has been fully drawn by the County. The letter of credit shall require that the County be notified six (6) months prior to any cancellation or alteration of the letter of credit by a party other than CC Solar. Should the County receive notice that the letter of credit will be cancelled or otherwise become unavailable or decrease, or should this Special Exception Permit be revoked, lapse, expire or be voided, the County may, immediately draw down the entirety of the letter of credit and convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the irrevocable letter of credit.

4.3.4.3 A surety bond shall mean a bond issued by a company with an AM Best rating of A++, that is treasury listed, and that is licensed to do business in the Commonwealth of Virginia. The surety bond shall list the County as an obligee and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn or cancelled by CC Solar before the Decommissioning Activities required herein and required by the

terms of the Decommissioning Plan are completed or the amount guaranteed has been fully paid to the County. The surety bond shall require that the County be notified six (6) months prior to any cancellation or alteration of the bond. Should the County receive notice that the surety bond will be cancelled or otherwise become unavailable or decrease below the limits required herein, or should the Special Exception Permit be revoked, lapse, expire or be voided, the County may, immediately file a claim, for the entirety of the amount of the bond, the guarantor shall pay the amounts guaranteed and the County shall convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the surety bond.

- 4.3.5** If the County elects to expend the surety funds to undertake Decommissioning at CC Solar's expense following its default hereunder, the County shall provide written notice of such election to CC Solar and the person identified as owner of the Property in the land records of Caroline County as of the date of the notice (if a different individual or entity). Within six (6) months of the completion of the Decommissioning Activities required herein, as confirmed by the County Administrator, the surety shall be released by the County and any amounts remaining after full and final payment of all amounts expended by the County as allowed herein, if any, shall be released and paid to the person identified as owner of the Site in land records of Caroline County as of the date of the completed Decommissioning or as otherwise directed by that owner of the Site.
- 4.3.6** Should the Special Exception Permit be revoked, lapse, expire, or be voided, and CC Solar is in default in performing its Decommissioning responsibilities the County may immediately draw down all of the surety funds and convert them into a cash bond for purposes of Decommissioning as set forth hereunder and as set forth in the Decommissioning Plan. In such case, no contractual agreement shall be required for the cash bond. This shall be reflected in the surety provided. Funds drawn down from the surety by the County shall be used for Decommissioning activities.
- 4.3.7** Should the funds guaranteed for the Decommissioning Activities for any reason not be sufficient for the County to complete the Decommissioning Activities as allowed for herein and as set forth in the Decommissioning Plan, CC Solar (and, if a different entity, the Property owner) shall be and shall remain liable to the County for the difference between the guaranteed funds and the amounts required to Decommission the Solar Facility and shall pay the difference to the County upon demand. The Parties agree that any such amount which remains unpaid shall constitute a lien against the Property ranking on parity with liens for unpaid taxes and enforceable in the same manner as provided in Articles 3 and 4 of Chapter 39 of Title 58.1, Code of Virginia, 1950, as amended. The County shall not be liable to any party in any way for the funds drawn pursuant to the conditions set out herein and expended in relation to Decommissioning. Should CC Solar fail to timely complete Decommissioning Activities after the Site is Abandoned, or

should the Special Exception Permit be revoked, lapse, expire, or be voided and Decommissioning Activities not be diligently undertaken or performed by CC Solar pursuant to this Agreement, and the County elects to draw down the funds for the purpose of performing the Decommissioning Activities and mobilize its contractors to perform the Decommissioning Activities or otherwise incur liability to its contractors for the performance of the Decommissioning Activities, CC Solar shall have no right or obligation to perform the Decommissioning Activities unless specifically authorized by the County in writing. If the County draws down the funds from the surety, those funds shall be primary for the payment of Decommissioning costs whether such are performed for the County or by CC Solar pursuant to an agreement for such work acceptable to the County.

4.3.8 CC Solar shall immediately, upon written demand by the County or any person or entity authorized to act on behalf of the County, grant or release to the County, or any person or entity authorized to act on behalf of the County, under terms deemed acceptable by the County, all necessary real property rights, personal property rights, either or both, as determined solely by the County, other than fee simple ownership or a leasehold interest of the Property, so that the County or any person or entity authorized to act on behalf of the County may undertake any required Decommissioning Activities that have not otherwise been performed as required. This shall include, but may not be limited to, releasing any interest in the personal property, facilities, fixtures, and structures which are to be removed and recycled, disposed of, or otherwise demolished.

4.3.9 If following completion of Decommission Activities pursuant to the terms hereof, the County shall hold any remaining surety or proceeds from surety posted by CC Solar, the County shall promptly return or refund such surety and/or proceeds as directed by CC Solar.

SECTION 5. MISCELLANEOUS

5.1 Compliance with Laws.

CC Solar shall operate and Decommission the Solar Facility in compliance with all applicable federal and state laws, regulations, approvals, permits, and the terms of this Agreement. In the event that CC Solar is notified of any violation at the Solar Facility of any applicable federal or state law, regulation, approval, or permit, CC Solar shall promptly notify the County of said violation, (b) diligently cooperate with the applicable regulatory agency, and (c) take all reasonable and necessary actions to attempt to cure the violation. CC Solar shall comply with all applicable laws, regulations, approvals, rules, and ordinances.

5.2 **Insurance.**

CC Solar will obtain and maintain in effect comprehensive general liability insurance and prior to starting construction and throughout the construction operation and decommissioning of the Solar Facility CC Solar shall obtain or will require its contractor to obtain and maintain pollution liability insurance with minimum coverage limitations of \$2,000,000 per occurrence and \$5,000,000 annual aggregate; employer's liability/workers' compensation insurance with a minimum coverage limitation of \$1,000,000 per accident; property and casualty insurance on a replacement value basis, with minimum coverage limitation of \$5,000,000 per occurrence; and such other insurance for the Solar Facility as may be required by law. The County shall be listed as an additional insured on the comprehensive general liability insurance policies in connection with any event or occurrence arising from the Solar Facility.

5.3 **Notification.**

Within thirty (30) days of CC Solar's receipt of same, CC Solar will notify the County of any material warning letters, notices of violation, revocation of a permit or approval, or any other notices of enforcement action from governmental authorities resulting from operation of the Solar Facility concerning the environment or life and safety issues.

5.4 **Term; Modification.**

5.4.1 This Agreement shall become effective upon execution and shall remain in effect until the Solar Facility is completely Decommissioned, all Decommissioning Activities are complete and approved, and all leases with landowners of the Site are terminated, or by a subsequent written agreement of the Parties.

5.4.2 CC Solar will notify the County, in writing, at least one hundred eighty (180) days prior to permanently ceasing the generation of power at the Solar Facility if the decision to permanently cease operations is made while the Solar Facility is still operating.

5.4.3 This Agreement may be modified only by an instrument in writing, executed by the Parties.

5.4.4 This Agreement contains the entire Agreement between the Parties with respect to the subject matter hereof. This Agreement supersedes any prior written or oral agreements and understandings between the Parties as to the subject matter hereof.

5.5 Transferability of Agreement.

No assignment of this Agreement or any right accruing under this Agreement, other than a collateral assignment as security for project financing, shall be made by CC Solar to any entity which is not a Related Entity without the express written consent of the County, which consent shall not be unreasonably withheld. In the event of any assignment, the assignee shall fully assume all of the liabilities and obligations of CC Solar under this Agreement. The surety provided by CC Solar hereunder shall remain in place until a satisfactory substitute surety is provided by the assignee in accordance with the terms of the Agreement. Any assignment, other than as permitted by this Section, without the consent of the County, shall be void.

5.6 Default.

5.6.1 This Agreement may be terminated by the County in the event of a material breach of this Agreement by CC Solar that has not been cured within sixty (60) days of written notice thereof being received by CC Solar; provided, however, if any such breach cannot be reasonably cured within such period, CC Solar shall be afforded an addition period, not to exceed one hundred eighty (180) days, to complete such cure provided that CC Solar commences such cure within such sixty (60) day period and continuously and diligently pursues such cure thereafter. If CC Solar initiates a cure within such period, the Agreement shall not terminate. A material breach shall mean a failure to comply with (1) any of the provisions of this Agreement in any material respect, (2) the permits and approvals under which the Solar Facility will be operated or built, or (3) applicable federal or state laws, approvals, or regulations. A material breach shall also include the insolvency of CC Solar or its assignee, such insolvency to be established by the filing of either a voluntary petition in bankruptcy showing CC Solar as the debtor or an involuntary petition that is not dismissed within one hundred eighty (180) days of its filing. A material breach shall also include a violation of the Special Exception Permit issued to CC Solar, written notice of which is received by CC Solar. Provided, however, CC Solar's complying or taking action consistent with any governmental or regulatory warning letter, notice of violation, or plan of action shall be deemed a cure if the compliance or the action is initiated by CC Solar within sixty (60) days of CC Solar receiving the warning letter, notice of violation, or action plan. CC Solar's failure after receiving written notice to resolve as soon as practically possible, a material breach that state or federal authorities determine threaten the safety of the public or threatens to cause material environmental damage, shall entitle the County to enter upon the Site and take action, at CC Solar's expense, to eliminate or mitigate such threat upon CC Solar's failure to act as soon as practically possible. Further, the County may terminate this Agreement effective immediately if CC Solar fails to pay an amount due under this Agreement within thirty (30) days of receiving from the County written notice of the failure to pay. Provided, however, if a dispute exists as to whether an amount is owed or CC Solar has otherwise breached or failed to comply with this Agreement, CC Solar may seek a declaratory judgment or other appropriate action in Caroline

County Circuit Court. If the dispute involves an amount owed by CC Solar to the County, CC Solar may submit any disputed amount to the Clerk of the Caroline County Circuit Court. The cure period and any termination of this Agreement shall be extended and tolled pending a decision by the Circuit Court on CC Solar's declaratory judgment or other action it filed.

5.6.2 In the event of a breach and the appropriate notice thereof to CC Solar by the County, the cure periods noted above may be extended at the sole discretion of the County without the County waiving its right to terminate the Agreement at any time prior to the cure being made by CC Solar.

5.7 Indemnification of County

If a third-party files a lawsuit, counterclaim, or crossclaim against a County relating to this Agreement, the County is entitled to all reasonable attorneys' fees, litigation expenses, and court costs to be reimbursed by CC Solar. CC Solar shall also indemnify and save harmless the County from and against all liabilities, claims, demands, damages, penalties, suits, actions, fines, losses, reasonable costs and expenses (including, without limitation, attorney's fees) arising from (a) any personal injury or damage to property occurring on or about the Property arising from the construction, operation or decommissioning of the Solar Facility, or (b) the exercise and performance by the County of the Decommissioning Activities addressed hereunder, but only to the extent of actual damages paid by the County pursuant to a final decision of a court of competent jurisdiction, which decision has become final and unappealable.

5.8 Notice.

To be effective under this Agreement, written notice by the Parties shall be delivered by hand or by certified mail, return receipt requested, as follows unless and until a Party is notified by the other of a change in recipient and/or address:

To CC Solar: CC Solar, LLC
Urban Grid Solar Projects
Attn: Compliance
337 Log Canoe Circle
Stevensville, MD 21666

With a copy to: FutureLaw II, LLC
Attn: Roger G. Bowers, Esquire
5516 Falmouth Street, Suite 200
Richmond, Virginia 23230

If to the County: Office of the Caroline County Administrator
Attn: Charles Culley
P.O. Box 447
Bowling Green, Virginia 22427

With a copy to: Caroline County Attorney
Attn: Christopher M. Mackenzie, Esquire
Sands Anderson, PC
1111 East Main Street, Suite 2400
Caroline, Virginia 23219

5.9 No Third Party Beneficiaries.

This Agreement is solely for the benefit of the named Parties hereto and their respective successors and permitted assigns, and no third-party beneficiaries are created or intended to be created hereby.

5.10 Severability.

If any provision of this Agreement shall be declared void or unenforceable, the remaining provisions shall not be affected but shall continue in full force and effect. If, for any reason, including a change in applicable law, it is ever determined by any court or governmental authority of competent jurisdiction that this Agreement is invalid then the Parties shall, subject to any necessary County meeting vote or procedures, undertake reasonable efforts to amend and or reauthorize this Agreement so as to render the invalid provisions herein lawful, valid and enforceable. If the Parties are unable to do so, this Agreement shall terminate as of the date of such determination of invalidity, and the Site and Project will thereafter be assessed and taxed as though this Agreement did not exist. The Parties will cooperate with each other and use reasonable efforts to defend against and contest any challenge to this Agreement by a third party.

5.11 Force Majeure.

No Party shall be responsible for its failure to fulfill an obligation pursuant to this Agreement to the extent that such failure is due to acts of God; labor strikes; war or terrorism; epidemics/pandemics as declared by executive order of the Governor of the Commonwealth of Virginia; fires; and floods. A Party experiencing a force majeure event that prevents fulfillment of a material obligation hereunder shall (a) give the other Party prompt written notice describing the particulars of the event; (b) suspend performance only to the extent and for the duration that is reasonably required by the force majeure event; (c) use reasonable efforts to overcome or mitigate the effects of such occurrence; and (d) promptly resume performance of the affected obligation if and when such Party is able to do so.

5.12 Mutual Covenants.

CC Solar covenants to the County that it will pay the County the amounts due hereunder when due in accordance with the terms of this Agreement, and will not seek to invalidate

this Agreement, or otherwise take a position adverse to the purpose or validity of this Agreement. So long as CC Solar is not in breach of this Agreement during its Term, the County covenants to CC Solar that it will not seek to invalidate this Agreement or otherwise take a position adverse to the purpose or validity of this Agreement.

5.13 Memorandum of Agreement.

A memorandum of this Agreement, in a form acceptable to the County Attorney, shall be recorded by CC Solar in the land records of the Clerk's Office of the Circuit Court of the County of Caroline, Virginia by CC Solar. Such recordation shall be at the CC Solar's sole cost and expense and shall occur as soon as reasonably practicable after the full execution of this Agreement. If CC Solar chooses not to develop the Project, in its sole discretion, the County shall execute a release of any memorandum filed in the aforementioned Clerk's Office.

5.14 Confidentiality.

This Agreement, once placed on the docket for consideration by the Caroline County Board of Supervisors, is a public document, subject to production under the Freedom of Information Act ("FOIA"). The County understands and acknowledges CC Solar, and as applicable, its associates, contractors, partners and affiliates utilize confidential and proprietary "state-of-the-art" information and data in its operations ("**Confidential Information**"), and that disclosure of any such information, including, but not limited to, disclosures of technical, financial or other confidential information concerning CC Solar or any Related Entity could result in substantial harm to it and could thereby have a significant detrimental impact on its employees and also upon the County. The County acknowledges that during the development of this Agreement, certain Confidential Information may be shared with the County by CC Solar. The County agrees that, except as required by law, including FOIA, and pursuant to the County's police powers, neither the County nor any employee, agent or contractor of the County will (i) knowingly or intentionally disclose or otherwise divulge any such confidential or proprietary information to any person, firm, governmental body or agency, or any other entity unless the request for Confidential Information is made under a provision of local, state or federal law. Upon receipt of such request but before transmitting any documents or information which may contain Confidential Information, the County will contact CC Solar to review the request for information and associated documents to determine if any Confidential Information is at risk of disclosure, to the extent possible in complying with FOIA. If Confidential Information exists, CC Solar may intervene on behalf of the County and defend against disclosure of the Confidential Information. The County agrees to cooperate in this defense and to the extent allowed by law, work to protect the Confidential Information of CC Solar. CC Solar agrees that any Confidential Information provided after the Effective Date of this Agreement shall be marked "Confidential Information" in accordance with Section 1.4.3.

5.15 Governing Law; Jurisdiction; Venue.

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to any of its principles of conflicts of laws or

other laws which would result in the application of the laws of another jurisdiction. The parties hereto (A) agree that any suit, action, or other legal proceedings, as between the parties hereto, arising out of or relating to this agreement, shall be brought and tried only in the Circuit Court of Caroline County, Virginia, (B) consent to the jurisdiction of such court in any such suit, action or proceeding, and (C) waive any objections which any of them may have to the laying of venue or any such suit, action, or proceeding in such court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. The parties hereto agree that a final judgment in any such suit, 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.

5.16 Counterparts; Electronic Signatures.

This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail/PDF or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

5.17 Headings and Recitals.

The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement. The Recitals above are incorporated into this Agreement as if fully set forth therein.

5.18 No Presumption in Favor of a Drafter of this Agreement.

The Parties recognize that both Parties are represented by counsel and in the event of a dispute between the Parties regarding the terms of this Agreement, and therefore agree that the terms and conditions contained herein comply in all respects with controlling law and that there shall be no presumption in favor of or against either Party as a drafter of this Agreement.

[Signatures Appear on the Following Pages]

WHEREFORE, the undersigned, having been duly authorized to bind their respective principals, do set their hands to this Agreement as of the Effective Date.

CAROLINE COUNTY, VIRGINIA

Date: _____

By: _____

Charles Culley, County Administrator Caroline
County, Virginia

Approved as to Form:

Sands Anderson P.C.

By: _____

Caroline County Attorney

DRAFT

CC SOLAR, LLC
a Virginia limited liability company

Date: _____

By: _____
E. Franklin DePew, Chief Executive Officer

Date: _____

By: _____
Mark Scanlan, Chief Financial Officer

DRAFT

**EXHIBIT A
(Tax Parcels)**

County Tax Map Numbers:

28-A-6
28-A-7
28-A-8
28-A-10 ([easement only](#))
28-A-39
28-A-11
40-A-21
40-A-23
40-A-26
40-A-74
40-A-75
40-A-76
40-A-79
40-A-85
40-A-86
40-A-87
40-A-88
40-A-89
40-A-19A
40-3-1A
40-3-2
40-3-3
40-3-4
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DRAFT

SOLAR SITING AGREEMENT

**CC SOLAR, LLC,
AND THE COUNTY OF CAROLINE, VIRGINIA**

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- Exhibit A – Tax Parcels
- Exhibit B – Development Plan
- Exhibit C – Special Exception Permit Conditions

DRAFT

SOLAR SITING AGREEMENT

This Solar Siting Agreement (“**Agreement**”) dated ~~August 9~~ as of September 13, 2022, between Caroline County, Virginia, a body politic and political subdivision of the Commonwealth of Virginia (the ~~or~~ “**County**”); and CC Solar, LLC, a Virginia limited liability company, and its successors and assigns (“**CC Solar**”) (singularly, a “**Party**” and, collectively, the “**Parties**”), recites and provides as follows:

RECITALS

R-1. CC Solar intends to develop, install, build, and operate a ground-mounted solar photovoltaic electric generating facility (the “**Project**”) on certain parcel(s) of land identified as Caroline County tax map parcel nos. identified on Exhibit A (the “**Property**” or the “**Site**”).

R-2. CC Solar owns, has acquired, or shall acquire the Property, which contains a total of approximately 1,682.3 acres and is more fully described on the Development Plan which is attached hereto as Exhibit B, and to which Development Plan reference is hereby made for a more complete and accurate description of the Property.

R-3. CC Solar or its agent or contractors will apply to all federal, state, and local regulating authorities and will seek to obtain all licenses, approvals, and permits required by law, regulation, or ordinance for the construction and operation of the Solar Facility (as hereinafter defined).

R-4. After all licenses, approvals, and permits are issued to CC Solar, CC Solar will commence operations of the Solar Facility in accordance with the terms of this Agreement; applicable building and zoning regulations; applicable special exception permit conditions; and all federal, state, and local laws, ordinances, and regulations.

R-5. Virginia Code § 15.2-2316.7, requires that each applicant for a solar facility shall meet, discuss, and negotiate a siting agreement with the locality. The County and CC Solar intend to, and do, hereby enter into this Agreement for the purpose of complying with Virginia Code § 15.2-2316.7 and to set forth their respective rights, duties, and obligations.

R-6. Pursuant to Virginia Code § 58.1-2636 the County has adopted an ordinance assessing the maximum permitted revenue share per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility (“**Solar Revenue Share**”).

R-7. Pursuant to Virginia Code § 58.1-3660, in adopting the Solar Revenue Share, the solar photovoltaic (electric energy) systems associated with the Project, which are considered “certified pollution control equipment” are exempt from all state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia (the “**Tax Exemption**”).

R-8. CC Solar, as set out in this Agreement, has agreed to make a voluntary payment to the County, above and beyond its tax obligations and the Solar Revenue Share, as a meaningful

way to be a community partner in the County and to help address capital and operational needs of the County in accordance with Virginia Code § 15.2-2316.7(B).

R-9. CC Solar, pursuant to the Solar Revenue Share and the Tax Exemption, has agreed to the payments and financial terms contained herein.

R-10. The County, pursuant to the requirement of Virginia Code § 15.2-2316.8(B), has held a public hearing in accordance with subdivision A of Virginia Code § 15.2-2204 for the purpose of considering this Agreement, after which a majority of a quorum of the members of the Caroline County Board of Supervisors (the “**Board**”) approved this Agreement.

NOW, THEREFORE, pursuant to Chapter 22, Title 15.2, Article 7.3 of the Code of Virginia, as amended, intending to be legally bound hereby and in consideration of the mutual obligations and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

DEFINITIONS

“**Abandoned**” means the discontinuation of power generation by the Solar Facility for a period of twelve (12) continuous months as set out in the Special Exception Permit.

“**Board**” means the Board of Supervisors of Caroline County, Virginia.

“**Commercial Operation**” means the establishment of Grid synchronization and operation to continuously deliver electrical energy output from Solar Facility to the Grid (not test energy), the commencement of which shall be the “Synchronization Date”.

“**County Administrator**” means the county administrator of Caroline County, Virginia.

“**Decommission**”, “**Decommissioned**”, “**Decommissioning**” or “**Decommissioning Activities**” means the work necessary to remove the Solar Facility improvements from the Property, restore the Property as required by the Caroline County Zoning Ordinance and the Special Exception Permit, and to otherwise comply with the Decommissioning Plan.

“**Decommissioning Plan**” means the plan for Decommissioning Activities submitted by CC Solar and approved by the County.

“**Development Plan**” means the detailed drawing showing all equipment, landscaping, roads, retention facilities, fencing, buffers, and other changes or improvements to be made to the Property for the development of the Project, attached hereto as **Exhibit B**, and incorporated herein by reference.

“**Effective Date**” means the date on which all signatures have been secured on this Agreement.

“**Final Site Plan**” means the detailed drawing showing all equipment, excavation, landscaping,

and other changes or improvements to be made to the Property for the development of the Project which is to be administratively reviewed and approved by the Caroline County Department of Planning and Community Development and other required departments and agencies of the Commonwealth of Virginia.

“**Grid**” means the interconnected network for delivering electricity from producers to consumers (consisting of generating stations, electrical substations, high voltage transmission lines, and distribution lines that connect individual customers) to which the Project is connected and provides power.

“**Related Entity**” or “**Related Entities**” means any entity that is controlled by, controls or under common control with CC Solar.

“**Solar Facility**” means the Site together with all equipment, apparatus, or other items of personal property used for the construction, operation, or Decommissioning of the Project.

“**Special Exception Permit**” means the permit granted by the County to CC Solar for the development of the Project, as attached in Exhibit C.

“**Surety Review Date**” means the date by which the cost estimate in the Decommissioning Plan shall be updated every five (5) years pursuant to the Caroline County Zoning Ordinance and the approved Decommissioning Plan.

“**Term**” means the period beginning on the last date on which this Agreement is executed by the last Party to sign and ending on the date when Decommissioning is complete.

“**Termination Date**” means the earlier of (i) the date of CC Solar’s voluntary commencement of the Decommissioning of all or a material portion of the Project, (ii) the date the Special Exception Permit is revoked, lapses, expires, or is voided, or (iii) the date the Project is deemed Abandoned; ~~or (iv) the thirty-fifth (35th) calendar year after the Synchronization Date.~~

SECTION 1. PERMITTING, CONSTRUCTION AND ADMINISTRATION

1.1 No obligation to Develop.

CC Solar has no obligation to develop the Project. Any test energy or other energy produced prior to Commercial Operation shall not trigger Payment under Section 3. It is understood that development of the Project by CC Solar is contingent upon a number of factors, including, but not limited to, regulatory approvals, availability and cost of equipment and financing, and demand for renewable energy and renewable energy credits. No election by CC Solar to terminate, defer, suspend, or modify plans to develop the Project shall be deemed a default of CC Solar under this Agreement.

1.2 Approved Plans.

Prior to beginning construction CC Solar will submit to the County and obtain the County's approval, and all other approvals as applicable, of all of the following, in accordance with the Special Exception Permit and Article XV Section 23 of the Caroline County Zoning Ordinance, as amended:

1.2.1 The Final Site Plan (for which application shall be made within twenty-four (24) months after approval of the Special Exception Permit)

1.2.2 The Decommissioning Plan

1.2.3 An emergency response plan, which at a minimum shall include fire suppression methods that can be readily deployed during both the construction and the operation of the Project and a program of education and training for County emergency response staff covering onsite emergency response.

1.2.4 A construction traffic management plan to be approved by the Virginia Department of Transportation (VDOT), which at a minimum shall address traffic control measures, an evaluation of the condition of the public roads along the delivery routes prior to construction, and a description and estimate of any anticipated repairs to public roads necessitated by damages attributable to Project construction.

1.2.5 A stormwater management plan.

1.2.6 An erosion and sediment control plan in accordance with the County's Erosion and Sediment Control Ordinance, Caroline County Code §§ 45-1 through 45-9, as amended, the associated Erosions and Sediment Control Services Agreement, and any other controls as authorized, in accordance with the conditions of the Special Exception Permit.

1.2.7 A construction phasing plan.

1.3. Solar Facility Liaisons.

1.3.1. CC Solar will provide to the County at all times the name and contact information for at least one individual who will serve as the primary point of contact and at least one individual who will serve as the backup point of contact for the Solar Facility. Each such individual shall be known as a "Solar Facility Liaison." The Solar Facility Liaison shall be knowledgeable about the Solar Facility and its operations, and shall also serve as the emergency contact for the sheriff's office, fire and rescue, and other emergency services, and will therefore be available any time (365 days a year, 24 hours a day) in the event of an emergency.

1.3.2. Subject to compliance with safety requirements prescribed by CC Solar, each Solar Facility Liaison shall have access to working areas of the Solar Facility to

ensure compliance with this Agreement and with applicable laws, regulations, and permit requirements.

1.3.3. The County will provide to CC Solar at all times the name and contact information for at least one individual who will serve as the primary point of contact and at least one individual who will serve as the backup point of contact for the County. Each such individual shall be known as a “County Solar Facility Liaison.”

1.3.4. CC Solar will designate at least one public liaison and will publicize a toll-free telephone number and email address for public communication with the public liaison.

1.4. Books and Records.

1.4.1 Records. CC Solar shall keep records of the maintenance and operations of the Solar Facility, including, but not limited to, the quantity of power generated, per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility based on submissions by CC Solar to the interconnecting utility. The County shall have the right to inspect and audit the same insofar as the records pertain to the operation of the Solar Facility.

1.4.2. Report. CC Solar shall prepare and submit to the Board an annual report, and if requested by the Board a quarterly report, which shall provide a summary of the maintenance and operation of the Solar Facility, including, but not limited to, the quantity of power generated per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility based on submissions by CC Solar to the interconnecting utility. A representative of CC Solar shall meet with the Board annually to deliver the annual report and to discuss the Solar Facility operations; all issues, concerns, or non-compliance reports; complaints and their resolution; and other items as requested by the County. Notwithstanding the foregoing, there is no expectation that the annual report or any quarterly report contain, or that any representative of CC Solar be asked to discuss in a public forum, any proprietary or trade secret information, the disclosure of which would be detrimental to CC Solar.

1.4.3 Confidentiality. All records of the maintenance and operations of the Solar Facility shall be confidential and proprietary information protected from disclosure under this Agreement. Any such confidential information required to be submitted to the Board or the County in a report or audit, shall be placed in a technical exhibit to such report or audit, marked “confidential information” and protected from disclosure.

1.5. Permits and Approvals.

1.5.1 As part of the process to obtain approval to construct, own, and operate the Solar Facility, CC Solar has applied to the County for the Special Exception Permit as set forth in Article XV, Section 23 of the County’s Zoning Ordinance. The Special

Exception Permit shall set forth the terms and conditions upon which the Solar Facility may be constructed, operated, and decommissioned, which conditions are attached hereto as **Exhibit C**, and are incorporated and made a part of this Agreement as if fully set forth herein. All requirements and conditions approved by the Caroline County Board of Supervisors contained in the Special Exception Permit shall be fulfilled and adhered to by CC Solar in connection with the Solar Facility. Nothing herein shall guarantee approval or continuation of Special Exception Permit any other special exception permit for the Property.

1.5.2 If the Special Exception Permit is approved by the Board, violation by CC Solar or by any of CC Solar's agents, assigns, or successors in interest of any terms and conditions of the Special Exception Permit or of any other applicable zoning requirements shall constitute a violation of this Agreement and of the Special Exception Permit. Pursuant to Virginia Code § 15.2-2316.9, as amended, this Agreement shall not affect the authority of the County to enforce its ordinances and regulations, to the extent that they are not inconsistent with the terms and Agreement.

1.5.3 Approval of this Agreement by the Board shall deem the Project to be substantially in accord with the County's Comprehensive Plan, thereby satisfying the requirements of Virginia Code § 15.2-2232, as amended.

1.5.4 The County will make available to CC Solar, upon request, access to all publicly available records and data in its possession or control pertaining to the Solar Facility. The County will process expeditiously requests for permits and other approvals required by County ordinances. The Board will take no action intended to frustrate or prevent CC Solar from receiving and maintaining any license, approval, or permit that is consistent with the applicable ordinances and zoning. Provided however, nothing herein shall be construed to require the Board to exercise any legislative function in favor of CC Solar.

1.5.5 Site construction shall be in accordance with all licenses, approvals, and permits, including, but not limited to, the Special Exception Permit and the Final Site Plan.

SECTION 2. OPERATIONS AND MAINTENANCE.

CC Solar will assume all liabilities and duties for compliance with all applicable laws, regulations, and ordinances, licenses, approvals, and permits applicable to the Solar Facility. CC Solar will operate the Solar Facility in compliance with all applicable laws, regulations, ordinances, licenses, approvals, and permit requirements.

SECTION 3. FEES, PAYMENTS, AND CONTRIBUTIONS

3.1 Cost Reimbursement.

CC Solar will reimburse the County within thirty (30) days of the date of each invoice from the County all reasonable costs and fees incurred for professional services engaged for purposes of assisting the County during the application process and during construction, including, but not limited to, legal fees and consulting fees, except (a) legal fees shall not be assessed to CC Solar after construction commences unless as otherwise provided in this Agreement or the Special Exception Permit; and (b) legal fees incurred by the County in conducting inspections provided for in the Special Exception Permit and in defending any approval of the Project shall be refunded by CC Solar to the County, in full, and are not subject to the cost reimbursement cap. Otherwise, this cost reimbursement shall not exceed Fifty Thousand Dollars (\$50,000). The purpose of the reimbursement payments is to defray the costs and expenses incurred by the County in connection with (i) the negotiation and execution of this Agreement and other matters related to this Agreement, (ii) the zoning and permitting processes related to the approval of the Solar Facility, (iii) the permitting process with federal and state agencies, as applicable, and (iv) the construction of the Solar Facility, including, but not limited to, fees incurred to employ professionals to assist with inspections. Should the Special Exception Permit application submitted by CC Solar for the Project not be approved by the County, no reimbursement under this paragraph will be owed by CC Solar to the County.

3.2 Emergency Resources.

CC Solar will reimburse the County within thirty (30) days of the date of each invoice from the County all reasonable costs and fees incurred by local fire and rescue personnel in the event that a fire or similar event occurs at the Solar Facility.

3.3 Solar Revenue Share.

The County has adopted an ordinance pursuant to Virginia Code § 58.1-2636, as amended, for the assessment of the maximum permissible Solar Revenue Share per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Solar Facility based on submissions by the Solar Facility owner to the interconnecting utility, on any solar photovoltaic (electric energy) project. CC Solar agrees to make Solar Revenue Share payments to the County pursuant to the ordinance and shall, at all times, be subject to assessments levied in accordance with the ordinance adopted pursuant to Virginia Code § 58.1-2636, as that ordinance may from time to time be amended.

3.4 Voluntary Payment.

~~3.4.1~~ Pursuant to Virginia Code § 15.2-2316.7(B), as amended, and in an effort to be a good community partner with the County, CC Solar hereby agrees to pay the sum of One

Million, ~~NineFive~~ ~~and Fifty~~ Hundred and ~~Fifty~~ Thousand Dollars (\$1,~~950~~~~500~~,000.~~00~~) to the County as financial compensation to the County to address capital needs and critical infrastructure, and/or assist in the deployment of broadband in the County (the “**Voluntary Payment**”). ~~The Voluntary Payment shall be paid within ninety (90) days of Commercial Operation.”~~ payable as follows:

3.4.23.4.1. The initial sum of One Hundred Thousand Dollars (\$100,000.00) will be paid to the County by CC Solar within one hundred and eighty (180) days after approval of the Special Exception Permit.

3.4.2 An additional sum of One Hundred and Fifty Thousand Dollars (\$150,000.00) will be paid to the County by CC Solar within thirty (30) days after approval of the Final Site Plan and the issuance of all permits needed to commence construction (the “**Construction Approval Payment**”).

3.4.3 The balance of the Voluntary Payment, equal to the sum of One Million, Two Hundred Fifty Thousand Dollars (\$1,250,000.00) will be paid to the County by CC Solar within ninety (90) days after the Synchronization Date (the “**Synchronization Payment**”).

3.4.4 The Parties acknowledge that CC Solar’s obligation to make the Construction Approval Payment shall be conditioned upon the Final Site Plan being approved. The Parties acknowledge that CC Solar’s obligation to make the Synchronization Payment shall be conditioned upon the Project achieving and maintaining Commercial Operation.

3.4.5 The County plans to apply the Voluntary Payment to critical infrastructure projects to improve citizen quality of life, including but not limited to expanding educational opportunities, health care (telehealth), teleworking and economic development through significant investments in broadband deployment throughout the County. Notwithstanding the foregoing, the Voluntary Payment may be used for any purpose permitted by law, including but not limited to, any of the following purposes: (a) to fund the capital improvement plan of the County; (b) to meet needs of the current fiscal budget of the County; (c) to supplement the County’s fiscal fund balance policy; and (d) to support broadband funding, all as permitted by § 15.2-2316.7.

SECTION 4. CLOSURE AND DECOMMISSIONING

4.1 Notice of Decommission.

CC Solar shall provide a Notice of Decommissioning to the County Solar Facility Liaison and the County’s notice parties under this Agreement within thirty (30) days of a determination to cease operation of the Solar Facility.

4.2 Decommissioning Plan and Activities

4.2.1 Prior to the commencement of construction, CC Solar shall submit to the County and receive County approval of a Decommissioning Plan. CC Solar shall comply with all terms and conditions of the Decommissioning Plan as approved by the County. The Decommissioning Plan at a minimum shall include provisions regarding the following:

4.2.1.1 Specifications for the removal of all solar equipment, buildings, cabling, electrical components, foundations, pilings, and fencing.

4.2.1.2 A requirement that all Site real property must be restored to the condition of the property as of the date construction commences.

4.2.1.3 A requirement that the Site must be stabilized so as to adequately control, prevent, and minimize any and all erosion or sediment runoff, consistent with the approved erosion and sediment control plan.

4.2.1.4 A requirement that prior to stabilization, all soils compacted by the Decommissioning Activities or by construction or operation of the Solar Facility, except gravel roads and paths established for the operation of the Site, shall be de-compacted, scarified, and restored six (6) inches in depth.

4.2.2 Decommissioning shall begin immediately upon the earlier of the Termination Date or when the Solar Facility has, for a period of ~~six (6)~~ twelve (12) continuous months, ceased operating as a solar energy facility collecting energy and then transferring and distributing it to the Grid, and shall be diligently pursued, as determined by the County in its ~~sole~~ reasonable discretion, and completed within eighteen (18) months from the Decommissioning commencement date. Prior to its expiration, the County may extend this eighteen (18) month Decommissioning period by six (6) months if the County finds, in its ~~sole~~ reasonable discretion, that the operator commenced Decommissioning the Solar Facility diligently and continuously worked to Decommission the Solar Facility and Site throughout the Decommissioning period and is reasonably expected to complete the Decommissioning within the additional six (6) month period. ~~CC Solar shall be responsible for payment of all costs and expenses associated with Decommissioning.~~

4.2.3 Periods during which the Solar Facility is not operational for maintenance, repair, or due to catastrophic events beyond CC Solar's control, during which CC Solar works diligently to return the Solar Facility to ~~full~~ operating status, shall not trigger the Decommissioning requirements herein. CC Solar shall provide written notice and evidence of the above to the County Administrator during the period in which the Solar Facility is not ~~fully~~ operational. Such notice shall identify the last day on which the Solar Facility was ~~fully~~ operational. Regardless of the efforts of CC

Solar to return the Solar Facility to ~~full~~ operational status, if the Solar Facility does not operate as a solar energy facility collecting energy and then transferring and distributing it to the Grid after the catastrophic event for a period of two (2) years, the Special Exception Permit shall be void and CC Solar shall commence Decommissioning no later than the 730th day after the last day the Solar Facility was ~~fully~~ operational.

- 4.2.4** The obligations under this Agreement shall be binding on CC Solar's authorized successors and assigns as well as any authorized lessee or sublessee of CC Solar, licensee or operator of the Solar Facility and, if the ownership of the Property is ever conveyed to an individual or entity other than CC Solar, upon any such successor in title of CC Solar, which shall execute an acknowledgment of its obligations hereunder prior to closing. CC Solar shall provide written notice to the County of any change of ownership, lessee, assignee, or party responsible for Decommissioning of the Solar Facility, or change in any part of the contact information, within five (5) business days of such change.

4.3 Surety for Costs of Decommissioning

- 4.3.1** If Decommissioning Activities are not completed within the allotted time, ~~if~~ following the date the Project is Abandoned, or if the Decommissioning Activities fail to return the condition of the Property to the condition required by the approved Decommissioning Plan, such failure constitutes a Default hereunder. In the event of a Default, the County may, but is in no way obligated to, complete or have completed the Decommissioning Activities required under the terms of the Decommissioning Plan and recover all costs of completing those Decommissioning Activities from the financial surety provided by CC Solar, and if such proceeds from such surety are not sufficient to complete activities required under the Decommissioning, directly from CC Solar and the Property owner, jointly and severally (if the Property is ever conveyed to an individual or entity other than CC Solar).
- 4.3.2** To secure the costs of Decommissioning, CC Solar shall at all times, beginning at Commercial Operation and until the completion of activities required under the Decommissioning Plan, provide financial surety in a form and in an amount approved by the County. Such surety shall be one and the same surety required of CC Solar under this Agreement, the Conditions and the Ordinance. CC Solar shall not be required to post multiple or duplicative sureties for decommissioning.
- 4.3.3** The amount of the surety required shall be 100% of the estimated Decommissioning costs, such to be determined as required by the Caroline County Zoning Ordinance and the Special Exception Permit at each Surety Review Date. The estimated costs and surety to meet the above requirements shall be reviewed by the County Administrator on each Surety Review Date, at which time the County Administrator shall determine if the estimates adequately reflect the Decommissioning costs, and that the surety will guarantee performance. Should

the County Administrator determine that estimated costs and surety are insufficient, the County Administrator shall hire its own professional engineer to certify and seal its estimate of adequate Decommissioning costs. CC Solar shall reimburse the County for costs of such second engineers estimate. The County shall provide a copy of such second estimate to CC Solar. CC Solar shall adjust the surety to an amount equal to the higher of the two estimates within sixty (60) days following the Surety Review Date.

4.3.4 Surety must be provided in the form of a cash bond deposited with the County; by an irrevocable letter of credit provided for the County's benefit; or by a surety bond listing the County as the obligee, as otherwise provided in Virginia Code § 15.2-2241.2, as amended, as follows:

4.3.4.1 A cash bond shall be in the form of a cashier's check or certified check deposited with the County which has cleared all issuing institutions. Any interest accruing on such funds shall be added to the total amount and retained by the County for Decommissioning. The deposit shall be accompanied by a letter agreement, acceptable to, and issued by, the County Administrator, confirming that the cash deposit is to be held by the County to ensure the performance of the Decommissioning Activities required herein.

4.3.4.2 An irrevocable letter of credit shall mean an instrument provided by a lending institution satisfactory to the County guaranteeing payment to the County within seventy-two (72) hours of the County's written notice to the institution of a Default hereunder and demand to the institution for the funds. The letter of credit shall have no expiration date or required renewal and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn or cancelled by CC Solar before the Decommissioning Activities required herein is completed or the amount guaranteed has been fully drawn by the County. The letter of credit shall require that the County be notified six (6) months prior to any cancellation or alteration of the letter of credit by a party other than CC Solar. Should the County receive notice that the letter of credit will be cancelled or otherwise become unavailable or decrease, or should this Special Exception Permit be revoked, lapse, expire or be voided, the County may, immediately draw down the entirety of the letter of credit and convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the irrevocable letter of credit.

4.3.4.3 A surety bond shall mean a bond issued by a company with an AM Best rating of A++, that is treasury listed, and that is licensed to do business in the Commonwealth of Virginia. The surety bond shall list the County as an obligee and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn or cancelled by CC Solar before the

Decommissioning Activities required herein and required by the terms of the Decommissioning Plan are completed or the amount guaranteed has been fully paid to the County. The surety bond shall require that the County be notified six (6) months prior to any cancellation or alteration of the bond. Should the County receive notice that the surety bond will be cancelled or otherwise become unavailable or decrease below the limits required herein, or should the Special Exception Permit be revoked, lapse, expire or be voided, the County may, immediately file a claim, for the entirety of the amount of the bond, the guarantor shall pay the amounts guaranteed and the County shall convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the surety bond.

4.3.5 If the County elects to expend the surety funds to undertake Decommissioning at CC Solar's expense following its default hereunder, the County shall provide written notice of such election to CC Solar and the person identified as owner of the Property in the land records of Caroline County as of the date of the notice (if a different individual or entity). Within six (6) months of the completion of the Decommissioning Activities required herein, as confirmed by the County Administrator, the surety shall be released by the County and any amounts remaining after full and final payment of all amounts expended by the County as allowed herein, if any, shall be released and paid to the person identified as owner of the Site in land records of Caroline County as of the date of the completed Decommissioning or as otherwise directed by that owner of the Site.

4.3.6 Should the Special Exception Permit be revoked, lapse, expire, or be voided, and CC Solar is in default in performing its Decommissioning responsibilities the County may immediately draw down all of the surety funds and convert them into a cash bond for purposes of Decommissioning as set forth hereunder and as set forth in the Decommissioning Plan. In such case, no contractual agreement shall be required for the cash bond. This shall be reflected in the surety provided. Funds drawn down from the surety by the County shall be used for Decommissioning activities.

4.3.7 Should the funds guaranteed for the Decommissioning Activities for any reason not be sufficient for the County to complete the Decommissioning Activities as allowed for herein and as set forth in the Decommissioning Plan, CC Solar (and, if a different entity, the Property owner) shall be and shall remain liable to the County for the difference between the guaranteed funds and the amounts required to Decommission the Solar Facility and shall pay the difference to the County upon demand. The Parties agree that any such amount which remains unpaid shall constitute a lien against the Property ranking on parity with liens for unpaid taxes and enforceable in the same manner as provided in Articles 3 and 4 of Chapter 39 of Title 58.1, Code of Virginia, 1950, as amended. The County shall not be liable to any party in any way for the funds drawn pursuant to the conditions set out herein and expended in relation to Decommissioning. Should [CC Solar fail to](#)

[timely complete Decommissioning Activities after](#) the Site ~~beis~~ Abandoned, or should the Special Exception Permit be revoked, lapse, expire, or be voided and Decommissioning Activities not be diligently undertaken or performed by CC Solar pursuant to this Agreement, and the County elects to draw down the funds for the purpose of performing the Decommissioning Activities and mobilize its contractors to perform the Decommissioning Activities or otherwise incur liability to its contractors for the performance of the Decommissioning Activities, CC Solar shall have no right or obligation to perform the Decommissioning Activities unless specifically authorized by the County in writing. If the County draws down the funds from the surety, those funds shall be primary for the payment of Decommissioning costs whether such are performed for the County or by CC Solar pursuant to an agreement for such work acceptable to the County.

4.3.8 CC Solar shall immediately, upon written demand by the County or any person or entity authorized to act on behalf of the County, grant or release to the County, or any person or entity authorized to act on behalf of the County, under terms deemed acceptable by the County, all necessary real property rights, personal property rights, either or both, as determined solely by the County, other than fee simple ownership or a leasehold interest of the Property, so that the County or any person or entity authorized to act on behalf of the County may undertake any required Decommissioning Activities that have not otherwise been performed as required. This shall include, but may not be limited to, releasing any interest in the personal property, facilities, fixtures, and structures which are to be removed and recycled, disposed of, or otherwise demolished.

4.3.9 [If following completion of Decommission Activities pursuant to the terms hereof, the County shall hold any remaining surety or proceeds from surety posted by CC Solar, the County shall promptly return or refund such surety and/or proceeds as directed by CC Solar.](#)

SECTION 5. MISCELLANEOUS

5.1 **Compliance with Laws.**

CC Solar shall operate and Decommission the Solar Facility in compliance with all applicable federal and state laws, regulations, approvals, permits, and the terms of this Agreement. In the event that CC Solar is notified of any violation at the Solar Facility of any applicable federal or state law, regulation, approval, or permit, CC Solar shall promptly notify the County of said violation, (b) diligently cooperate with the applicable regulatory agency, and (c) take all reasonable and necessary actions to attempt to cure the violation. CC Solar shall comply with all applicable laws, regulations, approvals, rules, and ordinances.

5.2 **Insurance.**

CC Solar will obtain and maintain in effect comprehensive general liability insurance and pollution liability insurance with minimum coverage limitations of \$2,000,000 per occurrence and \$5,000,000 annual aggregate; employer's liability/workers' compensation insurance with a minimum coverage limitation of \$1,000,000 per accident; property and casualty insurance on a replacement value basis, with minimum coverage limitation of \$5,000,000 per occurrence; and such other insurance for the Solar Facility as may be required by law. The County shall be listed as an additional insured on the comprehensive general liability insurance policies in connection with any event or occurrence arising from the Solar Facility.

5.3 Notification.

Within thirty (30) days of CC Solar's receipt of same, CC Solar will notify the County of any material warning letters, or notices of violation, any revocation of a permit or approval, or any other notices of enforcement action from governmental authorities resulting from operation of the Solar Facility concerning the environment or life and safety issues.

5.4 Term; Modification.

5.4.1 This Agreement shall become effective upon execution and shall remain in effect until the Solar Facility is completely Decommissioned, all Decommissioning Activities are complete and approved, and all leases with landowners of the Site are terminated, or by a subsequent written agreement of the Parties.

5.4.2 CC Solar will notify the County, in writing, at least one hundred eighty (180) days prior to permanently ceasing the generation of power at the Solar Facility if the decision to permanently cease operations is made while the Solar Facility is still operating.

5.4.3 This Agreement may be modified only by an instrument in writing, executed by the Parties.

5.4.4 This Agreement contains the entire Agreement between the Parties with respect to the subject matter hereof. This Agreement supersedes any prior written or oral agreements and understandings between the Parties as to the subject matter hereof.

5.5 Transferability of Agreement.

No assignment of this Agreement or any right accruing under this Agreement, other than a collateral assignment as security for project financing, shall be made by CC Solar to any entity which is not a Related Entity without the express written consent of the County, which consent shall not be unreasonably withheld. In the event of any assignment, the

assignee shall fully assume all of the liabilities and obligations of CC Solar under this Agreement. The surety provided by CC Solar hereunder shall remain in place until a satisfactory substitute surety is provided by the assignee in accordance with the terms of the Agreement. Any assignment, other than as permitted by this Section, without the consent of the County, shall be void.

5.6 Default.

5.6.1 This Agreement may be terminated by the County in the event of a material breach of this Agreement by CC Solar that has not been cured within sixty (60) days of written notice thereof being received by CC Solar; provided, however, if any such breach cannot be reasonably cured within such period, CC Solar shall be afforded an addition period, not to exceed one hundred eighty (180) days, to complete such cure provided that CC Solar commences such cure within such sixty (60) day period and continuously and diligently pursues such cure thereafter. If CC Solar initiates a cure within such period, the Agreement shall not terminate. A material breach shall mean a failure to comply with (1) any of the provisions of this Agreement in any material respect, (2) the permits and approvals under which the Solar Facility will be operated or built, or (3) applicable federal or state laws, approvals, or regulations. A material breach shall also include the insolvency of CC Solar or its assignee, such insolvency to be established by the filing of either a voluntary petition in bankruptcy showing CC Solar as the debtor or an involuntary petition that is not dismissed within one hundred eighty (180) days of its filing. A material breach shall also include a violation of the Special Exception Permit issued to CC Solar, written notice of which is received by CC Solar. Provided, however, CC Solar's complying or taking action consistent with any governmental or regulatory warning letter, notice of violation, or plan of action shall be deemed a cure if the compliance or the action is initiated by CC Solar within sixty (60) days of CC Solar receiving the warning letter, notice of violation, or action plan. CC Solar's failure after receiving written notice to resolve as soon as practically possible, a material breach that state or federal authorities determine threaten the safety of the public or threatens to cause material environmental damage, shall entitle the County to terminate this Agreement effective immediately enter upon the Site and take action, at CC Solar's expense, to eliminate or mitigate such threat upon CC Solar's failure to act as soon as practically possible. Further, the County may terminate this Agreement effective immediately if CC Solar fails to pay an amount due under this Agreement within thirty (30) days of receiving from the County written notice of the failure to pay. Provided, however, if a dispute exists as to whether an amount is owed or CC Solar has otherwise breached or failed to comply with this Agreement, CC Solar may seek a declaratory judgment or other appropriate action in Caroline County Circuit Court. If the dispute involves an amount owed by CC Solar to the County, CC Solar shall may submit any disputed amount to the Clerk of the Caroline County Circuit Court. The cure period and any termination of this Agreement shall be extended and tolled pending a decision by the Circuit Court on CC Solar's declaratory judgment or other action it filed.

5.6.2 In the event of a breach and the appropriate notice thereof to CC Solar by the County, the cure periods noted above may be extended at the sole discretion of the County without the County waiving its right to terminate the Agreement at any time prior to the cure being made by CC Solar.

5.7 Indemnification of County

If a third-party files a lawsuit, counterclaim, or crossclaim against a County relating to this Agreement, the County is entitled to all reasonable attorneys' fees, litigation expenses, and court costs to be reimbursed by CC Solar. CC Solar shall also indemnify and save harmless the County from and against all liabilities, claims, demands, damages, penalties, suits, actions, fines, losses, reasonable costs and expenses (including, without limitation, attorney's fees) arising from (a) any personal injury or damage to property occurring on or about the Property arising from the construction, operation or decommissioning of the Solar Facility, or (b) the exercise and performance by the County ~~of~~ the Decommissioning Activities addressed hereunder, but only to the extent of actual damages paid by the County pursuant to a final decision of a court of competent jurisdiction, which decision has become final and unappealable.

5.8 Notice.

To be effective under this Agreement, written notice by the Parties shall be delivered by hand or by certified mail, return receipt requested, as follows unless and until a Party is notified by the other of a change in recipient and/or address:

To CC Solar: CC Solar, LLC
Urban Grid Solar Projects
Attn: Compliance
337 Log Canoe Circle
Stevensville, MD 21666

With a copy to: FutureLaw II, LLC
Attn: Roger G. Bowers, Esquire
5516 Falmouth Street, Suite 200
Richmond, Virginia 23230

If to the County: Office of the Caroline County Administrator
Attn: Charles Culley
P.O. Box 447
Bowling Green, Virginia 22427

With a copy to: Caroline County Attorney
Attn: Christopher M. Mackenzie, Esquire
Sands Anderson, PC
1111 East Main Street, Suite 2400

5.9 No Third Party Beneficiaries.

This Agreement is solely for the benefit of the named Parties hereto and their respective successors and permitted assigns, and no third-party beneficiaries are created or intended to be created hereby.

5.10 Severability.

If any provision of this Agreement shall be declared void or unenforceable, the remaining provisions shall not be affected but shall continue in full force and effect. If, for any reason, including a change in applicable law, it is ever determined by any court or governmental authority of competent jurisdiction that this Agreement is invalid then the Parties shall, subject to any necessary County meeting vote or procedures, undertake reasonable efforts to amend and or reauthorize this Agreement so as to render the invalid provisions herein lawful, valid and enforceable. If the Parties are unable to do so, this Agreement shall terminate as of the date of such determination of invalidity, and the Site and Project will thereafter be assessed and taxed as though this Agreement did not exist. The Parties will cooperate with each other and use reasonable efforts to defend against and contest any challenge to this Agreement by a third party.

5.11 Force Majeure.

No Party shall be responsible for its failure to fulfill an obligation pursuant to this Agreement to the extent that such failure is due to acts of God; labor strikes; war or terrorism; epidemics/pandemics as declared by executive order of the Governor of the Commonwealth of Virginia; fires; and floods. A Party experiencing a force majeure event that prevents fulfillment of a material obligation hereunder shall (a) give the other Party prompt written notice describing the particulars of the event; (b) suspend performance only to the extent and for the duration that is reasonably required by the force majeure event; (c) use reasonable efforts to overcome or mitigate the effects of such occurrence; and (d) promptly resume performance of the affected obligation if and when such Party is able to do so.

5.12 Mutual Covenants.

CC Solar covenants to the County that it will pay the County the amounts due hereunder when due in accordance with the terms of this Agreement, and will not seek to invalidate this Agreement, or otherwise take a position adverse to the purpose or validity of this Agreement. So long as CC Solar is not in breach of this Agreement during its Term, the County covenants to CC Solar that it will not seek to invalidate this Agreement or otherwise take a position adverse to the purpose or validity of this Agreement.

5.13 Memorandum of Agreement.

A memorandum of this Agreement, in a form acceptable to the County Attorney, shall be recorded by CC Solar in the land records of the Clerk's Office of the Circuit Court of the County of Caroline, Virginia by CC Solar. Such recordation shall be at the CC Solar's sole cost and expense and shall occur as soon as reasonably practicable after the full execution of this Agreement. If CC Solar chooses not to develop the Project, in its sole discretion, the County shall execute a release of any memorandum filed in the aforementioned Clerk's Office.

5.14 Confidentiality.

This Agreement, once placed on the docket for consideration by the Caroline County Board of Supervisors, is a public document, subject to production under the Freedom of Information Act ("FOIA"). The County understands and acknowledges CC Solar, and as applicable, its associates, contractors, partners and affiliates utilize confidential and proprietary "state-of-the-art" information and data in its operations ("**Confidential Information**"), and that disclosure of any such information, including, but not limited to, disclosures of technical, financial or other confidential information concerning CC Solar or any Related Entity could result in substantial harm to it and could thereby have a significant detrimental impact on its employees and also upon the County. The County acknowledges that during the development of this Agreement, certain Confidential Information may be shared with the County by CC Solar. The County agrees that, except as required by law, including FOIA, and pursuant to the County's police powers, neither the County nor any employee, agent or contractor of the County will (i) knowingly or intentionally disclose or otherwise divulge any such confidential or proprietary information to any person, firm, governmental body or agency, or any other entity unless the request for Confidential Information is made under a provision of local, state or federal law. Upon receipt of such request but before transmitting any documents or information which may contain Confidential Information, the County will contact CC Solar to review the request for information and associated documents to determine if any Confidential Information is at risk of disclosure, to the extent possible in complying with FOIA. If Confidential Information exists, CC Solar may intervene on behalf of the County and defend against disclosure of the Confidential Information. The County agrees to cooperate in this defense and to the extent allowed by law, work to protect the Confidential Information of CC Solar. CC Solar agrees that any Confidential Information provided after the Effective Date of this Agreement shall be marked "Confidential Information" in accordance with Section 1.4.3.

5.15 Governing Law; Jurisdiction; Venue.

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to any of its principles of conflicts of laws or other laws which would result in the application of the laws of another jurisdiction. The parties hereto (A) agree that any suit, action, or other legal proceedings, as between the parties hereto, arising out of or relating to this agreement, shall be brought and tried only in the Circuit Court of Caroline County, Virginia, (B) consent to the jurisdiction of such court in any such suit, action or proceeding, and (C) waive any objections which any of

them may have to the laying of venue or any such suit, action, or proceeding in such court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. The parties hereto agree that a final judgment in any such suit, 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.

5.16 Counterparts; Electronic Signatures.

This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail/PDF or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

5.17 Headings and Recitals.

The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement. The Recitals above are incorporated into this Agreement as if fully set forth therein.

5.18 No Presumption in Favor of a Drafter of this Agreement.

The Parties recognize that both Parties are represented by counsel and in the event of a dispute between the Parties regarding the terms of this Agreement, and therefore agree that the terms and conditions contained herein comply in all respects with controlling law and that there shall be no presumption in favor of or against either Party as a drafter of this Agreement.

[Signatures Appear on the Following Pages]

WHEREFORE, the undersigned, having been duly authorized to bind their respective principals, do set their hands to this Agreement as of the Effective Date.

CAROLINE COUNTY, VIRGINIA

Date: _____

By: _____

Charles Culley, County Administrator Caroline
County, Virginia

Approved as to Form:

Sands Anderson P.C.

By: _____

Caroline County Attorney

DRAFT

CC SOLAR, LLC
a Virginia limited liability company

Date: _____ By: _____

Name: _____

Title: _____

Date: _____ By: _____

Name: _____

Title: _____

Date: _____ By: _____

E. Franklin DePew, Chief Executive Officer

Date: _____ By: _____

Mark Scanlan, Chief Financial Officer

DRAFT

**EXHIBIT A
(Tax Parcels)**

County Tax Map Numbers:

28-A-6
28-A-7
28-A-8
28-A-10
28-A-39
28-A-11
40-A-21
40-A-~~22~~
~~40-A~~-23
40-A-26
40-A-74
40-A-75
40-A-76
40-A-79
40-A-85
40-A-86
40-A-87
40-A-88
40-A-89
40-A-~~22A~~
~~40-A~~-19A
40-3-1A
40-3-2
40-3-3
40-3-4
40-3-4A
40-3-1
41-A-1
41-A-2
41-A-3
41-A-4
41-A-5
41-A-6
41-A-7
41-A-8

DRAFT

EXHIBIT B
(Development Plan)

CC Solar Special Exception Permit, Preliminary Site Plans, dated February 17, 2021, Exhibit D to the Special Exception Permit Application, consisting of nine (9) sheets, prepared by Timmons Group, incorporated herein by this reference.

DRAFT

EXHIBIT C
(Special Exception Permit Conditions)

DRAFT

**EXHIBIT B
(Development Plan)**

CC Solar Special Exception Permit, Preliminary Site Plans, dated February 17, 2021, Exhibit D to the Special Exception Permit Application, consisting of nine (9) sheets, prepared by Timmons Group, incorporated herein by this reference.

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EXHIBIT C
(Special Exception Permit Conditions)

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