

AMENDMENT NO. 1 TO SOLAR FACILITIES OPTION TO LEASE AND LEASE AGREEMENT

This Amendment No. 1 to Solar Facilities Option to Lease and Lease Agreement (“*Amendment*”) is made and entered into effective as of [REDACTED], 2021, (“*Amendment Effective Date*”) by and between Village of Croton-on-Hudson, NY (“*Landlord*”), and SCS Van Wyck 012823 Croton on Hudson, LLC, a Delaware limited liability company (“*Tenant*”).

RECITALS

WHEREAS, Landlord and Tenant entered into that certain Solar Facilities Option to Lease and Lease Agreement dated as of March 3, 2021 (as may be amended, restated, supplemented or otherwise modified, the “*Agreement*”);

WHEREAS, Landlord and Tenant wish to amend the Agreement as set forth in this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. **Definitions.** Capitalized terms used but not defined in this Amendment have the meanings set forth in the Agreement.

2. **Amendments.**

2.1. **Operating Period Rent Adjustment.** Exhibit I (Operating Period Rent Adjustment) to the Agreement is hereby amended as follows:

2.1.1. Subsection I of Exhibit I is hereby amended by replacing it in its entirety with the following:

“I. NY-Sun Megawatt Block Credits and NY-Sun Megawatt-Hour Block Credits

Assumption: The System will qualify for the NY-Sun MW Block program at a rate of \$0.40/Wdc, the NY-Sun MW Block Parking Canopy Adder at a rate of \$0.25/Wdc, and the NY-Sun MWH Block program at a rate of \$175/kWh. Based on a system size of 4,753 kWdc and an energy storage system size of 15,000 kWh, the total assumed incentive amount is \$5,714,450.

Change in Assumption: In the event there is an upward or downward change in the NY-Sun MW Block or NY-Sun MW Block Parking Canopy Adder incentives received for all or any part of the System from the assumption set forth above, the Operating Period Rent will be increased or decreased to account for such change by an annual amount of \$1,200 for every \$10,000 of NY-Sun MW Block or NY-Sun MW Block Parking

Canopy Adder incentive received above or below the assumed incentive amount set forth above.

In the event there is an upward or downward change in the NY-Sun MWH Block incentive received for all or any part of the System from the assumption set forth above, the Operating Period Rent will be increased or decreased to account for such change by an annual amount of \$600 for every \$10,000 of NY-Sun MWH Block incentive received above or below the assumed incentive amount set forth above.”
.”

- 2.1.2. Subsection III of Exhibit I is hereby amended by replacing it in its entirety with the following:

“Contaminated Soil Removal.

Assumption: \$150,000 liability in respect of the removal of contaminated soil contemplated under Section 9.1(c)(ii).

Change in Assumption: In the event that Tenant discovers contaminated soil and is required to remove such soil pursuant to Section 9.1(c)(ii) and the costs of such removal exceed \$150,000, Tenant shall provide Landlord with evidence of the difference in cost between removing contaminated soil and the cost of removing uncontaminated soil, and Tenant shall receive a credit against Operating Rent for such costs that exceed \$150,000, which credit shall be applied on a monthly basis commencing on the first month that Operating Rent is due until it is exhausted. Tenant shall obtain three (3) quotes for such removal. Tenant shall select the party to remove the contaminated soil, and shall notify Landlord of its decision, based on a reasonable determination of various factors, which may include, without limitation, price, reputations, experience and insurance coverage.”

3. **Full Force and Effect.** Except as expressly set forth in this Amendment, all other provisions of the Agreement remain unchanged and in full force and effect, and Landlord and Tenant hereby ratify and confirm the Agreement as modified hereby.
4. **Successors and Assigns.** This Amendment shall inure to the benefit of and be binding upon Landlord and Tenant and each of their respective successors and assigns.
5. **Governing Law; Forum.** This Amendment shall be governed by and shall be construed, enforced and performed in accordance with the laws of the state of New York without regard to principles of conflicts of law. Actions brought hereunder shall be brought in the state of New York.

6. **Entire Agreement.** The Agreement, as amended hereby, constitutes the entire agreement of Landlord and Tenant with respect to the subject matter hereof, and supersedes the terms of any previous agreements or understandings, oral or written.
7. **Counterparts.** This Amendment may be executed in any number of counterparts, all of which shall constitute one and the same agreement, and any party hereto may execute this Amendment by signing and delivering one or more counterparts. Delivery of an executed counterpart of this Amendment electronically or by facsimile shall be effective as delivery of an original executed counterpart of this Amendment.

[Signature pages follow.]

IN WITNESS WHEREOF, effective as of the Amendment Effective Date.

LANDLORD:

Village of Croton-on-Hudson, NY

By: _____

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____,
2021, by _____.

Notary Public

TENANT:

SCS Van Wyck 012823 Croton on Hudson, LLC

By: _____

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____,
2021, by _____.

Notary Public