TOWN OF BURKE TOWN BOARD

RESOLUTION NO. 16 OF 2026

RESOLUTION APPROVING THE HOST COMMUNITY AGREEMENT FOR THE PROPOSED BROOKSIDE SOLAR, LLC 100MWAC PV SOLAR ELECTRICAL GENERATION PROJECT LOCATED ON APPROXIMATELY 1,460 ACRES OF REAL PROPERTY LOCATED IN THE TOWNS OF BURKE AND CHATEAUGAY, NEW YORK

WHEREAS, Brookside Solar, LLC (the "Applicant") proposes to construct one 100MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (together, the "Project") on approximately 1,460 acres of real property located in the Towns of Burke and Chateaugay, New York (collectively, the "Property"); and

WHEREAS, the Applicant recognizes that the Project will impact the surrounding community, particularly the Town of Burke (the "Town"), more specifically that, during the development, construction, and long-term operation of said Project, the Town may incur expenses in connection with the exercise of its police powers; and

WHEREAS, in connection with the impacts to the community, the Applicant intends to enter into an agreement respecting the Project for payments in lieu of taxes (the "PILOT Agreement") by the Applicant with the Franklin County Industrial Development Agency (the "IDA") for the benefit of the Town, the Town Chateaugay, Franklin County (the "County"), and the Chateaugay Central School District (the "School"); and

WHEREAS, in connection with the impacts to the community, the Applicant has agreed to enter into a Host Community Agreement (the "Agreement") in substantially the form annexed hereto as **Exhibit A** to this resolution.

NOW, THEREFORE, BE IT RESOLVED, that in consideration for the promises and for other good and valuable consideration, the Town Board does hereby approve the Agreement in substantially the form annexed hereto as **Exhibit A**; and

BE IT FURTHER RESOLVED, that Tim Crippen, as Deputy Supervisor of the Town of Burke, be, and hereby is, authorized, for and on behalf of the Town, to execute and deliver the Agreement, and to do all things and to take all actions as may be necessary for the Town to implement the foregoing resolution; and

BE IT FURTHER RESOLVED, that a copy of this resolution shall be filed in the office of the Town of Burke Town Clerk within five (5) days of the date of this Resolution and shall be mailed to the Applicant within the same five (5) day period.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call. which resulted as follows:

Vote	Aye	Nay	Abstain/ Absent	Signature
Bill Wood, Supervisor			X	
Tim Crippen	X			
Jim Otis	X			
Paddy Wheeler	X			
Eric Ashlaw			X	Absent

STATE OF NEW YORK:
COUNTY OF FRANKLIN: ss
TOWN OF BURKE:

I, **JUDY TAVERNIER**, Town Clerk for the Town of Burke, Franklin County, New York, DO HEREBY CERTIFY that I have compared the foregoing resolution duly adopted by the Town Board of the Town of Burke on the 8 day of September, 2026, with the original thereof now on file in my office, and the same is a correct and true copy of said resolution and of the whole thereof.

DATED: September 8, 2026

(SEAL)

Judy Tavernier

TOWN OF BURKE

AND

BROOKSIDE SOLAR, LLC

HOST COMMUNITY AGREEMENT
FOR THE
BROOKSIDE SOLAR PROJECT

EFFECTIVE AS OF _____

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HOST COMMUNITY AGREEMENT

This **HOST COMMUNITY AGREEMENT**, effective as of the __ day of _____, 2026 (the "*Agreement*"), by and between the **TOWN OF BURKE**, a municipal corporation existing under the laws of the State of New York (the "*Town*"), and **BROOKSIDE SOLAR, LLC**, a limited liability company duly organized and validly existing under the laws of the State of Delaware (the "*Company*", and together with the Town, the "*Parties*").

WHEREAS, the Company has obtained a Siting Permit (the "*Permit*") pursuant to Article VIII of the Public Service Law and its implementing regulations (the "*Article VIII Process*") with the New York State Office of Renewable Energy Siting and Electric Transmission ("*ORES*") to construct the Project (as defined below). The Permit authorizes the Company to construct a solar-powered electric generating facility in the Town and Town of Chateaugay (the "*Project*") on land located in the Town and Town of Chateaugay (the "*Land*"), including a buried and overhead collection line system to carry electricity to the point of interconnection, an interconnection substation facility, and a system of gravel access roads, security fencing and gates, parking, landscaping and related improvements to the Land (collectively, the "*Improvements*"), and certain equipment, including photovoltaic panels ("*Panels*") producing direct current ("*DC*") electricity with a total rated alternating current ("*AC*") output capacity of up to 100 megawatts ("*MWac*") to be mounted on panel racks ("*Panel Racks*"), inverters to convert DC electricity to AC electricity, and personal property, fixtures, machinery and equipment (collectively, the "*Equipment*", and together with the Land and the Improvements, the "*Project Facility*"); and

WHEREAS, the Company has agreed to support the Town with annual revenue from the Project in the form of host fee payments in addition to payment in-lieu of tax ("*PILOT*") revenue and special *ad valorem* tax ("*Special District Taxes*") revenue from the Project; and

WHEREAS, ORES expressly authorized the Town and/or its agents to implement the State Fire and Building Codes; and

WHEREAS, the Article VIII Process required the Company to identify the municipal officials responsible for reviewing and approving compliance with the New York State Uniform Fire Prevention and Building Code and the Energy Conservation Code of New York State (together, the "*State Fire and Building Codes*"); and

WHEREAS, the Parties believe that their mutual interests will be served by the execution of this Agreement which specifies their respective rights, interests, and obligations relative to the construction, operation, and decommissioning of the Project Facility; and

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions.

For all purposes of this Agreement, defined terms indicated by the capitalization of the first letter of such term shall have the meanings specified herein except as otherwise expressly provided for herein or as the context hereof otherwise requires.

Section 1.2 Interpretation.

In this Agreement, unless the context otherwise requires:

a. The terms "hereby," "hereof," "herein," "hereunder," and any similar terms as used in this Agreement refer to this Agreement, the term "heretofore" shall mean before, and the term "hereafter" shall mean after the date this Agreement is effective; and

b. Words of masculine gender shall mean and include correlative words of feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa; and

c. Any certificates, letters, or opinions required to be given pursuant to this Agreement shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law, or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Town Representations and Warranties.

The Town hereby represents and warrants that, as of the date of this Agreement:

a. it is a validly existing political subdivision of the State of New York ("*State*");

b. it has the power and authority to execute, deliver, and carry out all applicable terms and provisions of this Agreement;

c. all necessary action has been taken to authorize its execution, delivery, and performance of this Agreement, and this Agreement constitutes its legal, valid, and binding obligation enforceable against it in accordance with its terms (a copy of the Town's resolution approving this Agreement and authorizing its execution is attached hereto as Exhibit A);

d. its signatory hereto is duly authorized and empowered to execute and enter into this Agreement;

e. none of the execution or delivery of this Agreement, the performance of the obligations in connection with the transaction contemplated hereby, or the fulfillment of the terms and conditions hereof will conflict with or violate any provision of its organizational documents or policies or will conflict with, violate, or result in a breach of any applicable law; and

f. there is no action, suit, or proceeding, at law or in equity, or official investigation before or by any government authority pending or, to its knowledge, threatened against it, wherein an anticipated decision, ruling, or finding would result in a material adverse effect on its ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement.

Section 2.2 Company Representations and Warranties.

The Company hereby represents and warrants that, as of the date of this Agreement:

a. it is duly organized, validly existing, and in good standing under the laws of the state in which it is formed as set forth in the first paragraph of this Agreement and has requisite authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement;

b. it has the power and authority to execute, deliver, and carry out all applicable terms and provisions of this Agreement;

c. all necessary action has been taken to authorize its execution, delivery, and performance of this Agreement, and this Agreement constitutes its legal, valid, and binding obligation enforceable against it in accordance with its terms;

d. no governmental approval by or with any government authority is required for the valid execution, delivery, and performance under this Agreement by the Company, except such as are required for the construction, operation and maintenance of the Project Facility, and the Company has no reason to believe that any such government approval will not be made or obtained as required for the Company's performance hereunder;

e. none of the execution or delivery of this Agreement, the performance of the obligations in connection with the transaction contemplated hereby, or the fulfillment of the terms and conditions hereof will (i) conflict with or violate any provision of its articles of organization and operating agreement; (ii) conflict with, violate, or result in a breach of any applicable law; or (iii) conflict with, violate, or result in a breach of or constitute a default under or result in the imposition or creation of any mortgage, pledge, lien, security interest, or other encumbrance under this Agreement or under any term or condition of any mortgage, indenture, or any other agreement or instrument to which it is a party or by which it or any of its properties or assets are bound, including any such property incorporated in the Project Facility;

f. there is no action, suit, or proceeding, at law or in equity, or official investigation before or by any government authority pending or, to its knowledge, threatened against it, wherein an anticipated decision, ruling, or finding would result in a material adverse effect on its ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement; and

g. the conduct of its business is in compliance with all applicable governmental approvals with which a failure to comply, in any case or in the aggregate, would result in a material adverse effect on its ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement.

ARTICLE III

TERM

Section 3.1 Effective Date.

This Agreement will become effective (the "*Effective Date*") as of the date first written above.

Section 3.2 Term.

The term of this Agreement shall commence on the Effective Date and expire upon the earliest to occur of: (a) full payment of all Host Fees (as defined below) to the Town due under the terms and conditions of this Agreement or (b) termination of this Agreement pursuant to Section 8.1 hereof (the "*Term*").

ARTICLE IV

HOST FEE

Section 4.1 Host Fee Payments.

Notwithstanding the termination or expiration of this Agreement, the Company shall make annual Host Fee payments to the Town based on the installed capacity of the Project Facility ("*Installed Capacity*"), as defined in Section 4.1(d) herein for a period that is the greater of: (i) termination or expiration of the PILOT Agreement (as defined below); or (ii) after twenty-five (25) Host Fee payments have been made ("*Payment Term*"), as follows:

a. Host Fee Amount. For each payment year during the Payment Term as set forth in Section 4.2, the Company shall pay the Town a host fee (the "*Host Fee*") in an amount equal to: the Solar Rate, as defined in Section 4.1(b) hereof, times the Installed Capacity (the "*Total Solar Revenue Amount*"), as set forth in Section 4.1(d) hereof.

b. Solar Rate. In the year in which the Project commences Commercial Operation (as defined below), the Solar rate is $1,900 per MWac of Installed Capacity (the "*Solar Rate*") as may be adjusted pursuant to Section 4.1(c). Commencing with the Host Fee for the second full calendar year of operation of the Project Facility, the Solar Rate shall be increased annually by two percent (2%) each year of the Payment Term. A schedule of the annual Solar Rate is attached hereto as Exhibit B.

c. Partial Payment / Refund. The Host Fee shall be pro-rated for any year during the Payment Term in which the Project Facility operates for a portion, but not the entirety, of such year, as follows:

(1) Year in which the Project commences Commercial Operation. The Company shall make a partial Host Fee payment for the portion of the calendar year during which the Commercial Operation Date (as defined herein) occurs, in an amount equal to the Year 1 Solar Rate times the Installed Capacity times the number of days between the Commercial Operation Date and the end of the calendar year divided by the total number of days for that calendar year. Such partial payment shall be made at the same time the first Host Fee payment is due hereunder.

(2) Year in which the Decommissioning of the Project is completed in compliance with the Permit. Since Host Fee payments are due in January, at the outset of the fiscal year to which they apply, the Company shall receive a partial refund of the Host Fee payment made in the year during which Decommissioning (as defined herein) is completed, in an amount equal to the Host Fee paid for that calendar year times the number of days between the date on which Decommissioning is completed and the end of the calendar year divided by the total number of days for that calendar year. The Town shall pay the Company such refund within thirty (30) days following written notice from the Company that Decommissioning is completed.

d. Installed Capacity.

(1) The "*Installed Capacity*" means the alternating current (AC) manufacturer-rated maximum generating capacity in megawatts ("*MW*") of the Project at the time of the Commercial Operations Date: (i) that have not been Decommissioned; and (ii) that are not inoperable due to an event of Force Majeure.

The Company shall certify in writing to the Town the Installed Capacity of the Project Facility at least forty-five (45) days prior to the date the initial Host Fee payment is due pursuant to the provisions of this Agreement. Thereafter, the Company shall certify in writing to the Town any change in the Installed Capacity for which a change in Host Fee payment is sought within forty-five (45) days of any such change. A form of such certification is attached hereto as Exhibit C. All Host Fee payment amounts following provision of any such certification shall be based upon the Installed Capacity of the Project Facility stated therein.

e. Use of Funds; Public Purposes. The Parties agree and acknowledge that the Host Fee payments made hereunder are voluntary and shall be used for any lawful, public purposes to be undertaken by the Town. The Host Fee revenues paid by the Company to the Town are to be utilized at the sole and absolute discretion of the Town, including, but not limited to, as a source of funding for prospective costs and expenses associated with and related to anticipated municipal services and infrastructural improvements to be provided as a result of the Project's presence within the Town.

Section 4.2 Due Date of Host Fee Payments.

Host Fee payments shall be paid on or before January 31 of each year during the Payment Term, commencing in the calendar year in which the Project Facility becomes commercially operational (the "*Commercial Operation Date*"), which is the date on which the Project Facility as a whole first commences generating or transmitting electricity for sale, excluding electricity generated or transmitted during the period of on-site test operations and commissioning of the Project Facility ("*Commercial Operation*"). For the first year of Commercial Operation, the Host Fee payments shall be prorated based on the number of days between the Commercial Operation Date and December 31 of that year, calculated as a percentage of the full annual Host Fee amount and the payment will be made within sixty (60) days of the Commercial Operation Date. For purposes of this Agreement, the Commercial Operation Date is deemed to be the commercial operation date indicated in the Company's notice to the New York Independent System Operator ("*NYISO*") for the Project Facility. Within thirty (30) days after its notice to the NYISO, the Company shall provide written notice to the Town of the Commercial Operation Date. Due to energy market conditions, among other reasons, the Company is not able to make any representations regarding if and when the Project Facility will be constructed and therefore when Host Fee payments would commence.

Section 4.3 Payee.

Host Fee payments shall be paid directly to the Town and sent to the attention of the Town Supervisor unless the Company is notified in writing to direct payment in another manner.

Section 4.4 Late Payment.

Any Host Fee not paid as of the date due shall be deemed late without any requirement of notice from the Town. Late fees shall be assessed at a rate of two percent (2%) for the first month or a portion of a month due, and one percent (1%) for each subsequent month or a portion of a month on the original amount outstanding, until the Host Fee is paid; provided however, such amount shall not exceed the amount permitted by applicable law. Any penalty hereunder shall be due within ten (10) days of the Company's receipt of written notice from the Town. Late payment of penalties shall be subject to the same penalties as late payment of fees.

ARTICLE V

CODE COMPLIANCE CERTIFICATION, ON-SITE MONITOR, MONITORING AND REPORTING REQUIREMENTS

Section 5.1 On-Site Monitor; Scope of Review.

Pursuant to 19 NYCRR 900-2.25(e), the Company is obligated to arrange with the Town for the review, approval, inspection and compliance certification of work required by the Permit to comply with the State Fire and Building Codes, which the Town agrees supersede any provisions of the Town's local electrical, plumbing and building codes (the State Fire and Building Codes are collectively referred to herein as the "*Applicable Codes*") to the extent applicable to a

utility-scale solar energy generation system. The Town will engage the services of a qualified independent engineer or engineering firm (the "*On-Site Monitor*") who shall be responsible for: (a) reviewing any portion(s) of the Company's building plans for the Project Facility that are required to be reviewed by the Town, (b) if compliant with the Applicable Codes, recommending approval of building plans for the Project Facility, (c) assisting the Town's codes enforcement officer and representatives of such officer (collectively, the "*Town CEO*") with inspecting the construction work for compliance with Applicable Codes, and (d) certifying such compliance which shall be evidenced by issuance by the Town, or by the On-Site Monitor on the Town's behalf, of Certificates of Compliance and/or Temporary Certificates of Compliance (collectively, the "*Scope of Services*", as further defined and limited in Exhibit D attached hereto).

Section 5.2 Engagement of On-Site Monitor.

The Town shall select an On-Site Monitor for the Project at least sixty (60) days prior to the Commencement of Construction, or such date as may be reasonably agreed to by the Company to support the Company's construction schedule. Such selected firm must be a qualified independent engineering firm with solar-powered electric generating facility experience and may only charge fees and expenses that are ordinary and customary for similar services performed in the geographic area of the Project. The Town shall provide advance written notice to the Company of the selected firm. The Company shall have five (5) business days after its receipt of such notice to advise the Town in writing of any objection to the engagement of such firm to serve as the On-Site Monitor. If the Company raises an objection, the Town and the Company agree to meet within five (5) business days of the Town's receipt of the Company's notice to discuss the Company's concerns with the selected firm and potential substitute firms.

Section 5.3 Reports.

The On-Site Monitor shall provide copies of his or her reports to the Company at the same time such reports are provided to the Town or any of its representatives. The On-Site Monitor shall provide its reports promptly and in all cases within such time periods as is reasonably required to support the Company's construction schedule. Such disclosure shall not include any materials subject to the attorney-client privilege. To the extent the Company disputes the findings of any reports of the On-Site Monitor, such disputes shall be resolved pursuant to the processes set forth in Section 5.14 hereof, and to the extent disputes remain, pursuant to Section 7.1 hereof.

Section 5.4 Reimbursement of On-Site Monitor Fees.

a. Reimbursement of On-Site Monitor Fees. The Company shall reimburse the Town for all undisputed and documented costs, fees and expenses paid to the On-Site Monitor (the "*Fees*") for work performed in accordance with the Scope of Services (the "*Work*"); *provided, however*, that the Company's obligation to reimburse the Town for the Fees shall be limited to the combined sum of $50,000 for all Work performed. If the Fees are anticipated to exceed $50,000, the Town shall provide to the Company a written description of the additional Work to be performed and a written, detailed projection of all Fees anticipated to be incurred in connection with that additional Work. In such event, the Company and the Town shall negotiate in good faith an additional amount of Fees to be reimbursed by the Company for the additional Work.

b. Invoices. The Town shall submit to the Company a combined invoice for Fees on a monthly basis. The Company shall pay the undisputed amount of all invoices for Fees within forty-five (45) days of receipt.

c. Disputes. In the event the Company disputes or objects to any item set forth in an invoice, the Company shall identify the disputed item and the basis for the dispute, in writing, within thirty (30) days of the receipt of such invoice. The Company and the Town agree to communicate expeditiously and in good faith with each other to resolve any such billing dispute as promptly as possible. In the event the Parties are unable to resolve their dispute, the Parties shall proceed with mediation in accordance with Section 7.1 hereof. The Company shall promptly pay the agreed upon or mediated amount following resolution of any such dispute.

Section 5.5 Emergency Notifications

In the event of an emergency which requires the Company to notify ORES, the New York State Department of Public Service, the New York State Department of Environmental Conservation, the New York State Department of Health, or any federal, county or local emergency service or agency, the Company will notify the Town and the On-Site Monitor within forty-eight (48) hours of the circumstances and events requiring the initial reporting to the previously-referenced entities. All written reports and documents regarding such notifications will be made available to the Town and the On-Site Monitor, along with any responses or further written directions received from the entities to which the Company initially reported.

Section 5.6 Limitation of Section.

a. Nothing in this Agreement shall be read as making the On-site Monitor the engineer for the Company or the engineer of record for the Project, nor in anyway limit the Company's obligation under New York law to use a licensed engineer for the Project where required.

b. The On-Site Monitor is retained to act on behalf of the Town pursuant to separate agreement with the Town and does not have any obligation to or fiduciary or employment relationship with the Company.

Section 5.7 Prompt Review and Approval of Building Plans.

Prior to the Commencement of Construction, the Company will submit to the On-Site Monitor the Company's building plans for the Project that are required to be reviewed by the Town for compliance with the Applicable Codes. The On-Site Monitor will review and, if compliant with Applicable Codes, approve the Company's building plans for the Project Facility within ten (10) business days of the Company's submission of same. The On-Site Monitor's review and approval of the Company's building plans shall supersede and serve as any permit or other approval that the Town would otherwise require.

Section 5.8 Duties and Notice.

The On-Site Monitor shall perform the Town's duties pursuant to this Article and any written notice given to the On-Site Monitor in relation to this Article shall be deemed duly received by the Town for the purposes of this Agreement.

Section 5.9 Scope of Review.

The Town agrees that, to the extent permitted by law, the scope of its and the On-Site Monitor's review of the Project is limited to construction of the following: (a) Panel Rack foundations, if any, (b) inverters and transformers, and (c) substations (the "Reviewed Improvement"). The Town further agrees that, to the extent permitted by law, the scope of its and the On-Site Monitor's review of the Project does not extend to installation or assembly of Panels and power collection components of the Project Facility.

Section 5.10 Completion Notice and Evaluation Period.

When the Company has completed installation of a Reviewed Improvement, it shall certify to the On-Site Monitor that it has done so and request that a certificate of compliance be issued (the "*Completion Notice*"). The On-Site Monitor will by the end of the fifth (5^{th}) business day following its receipt of a Completion Notice (the "*Evaluation Period*") issue either a Certificate of Compliance (as defined below) or a Temporary Certificate of Compliance (as defined below) as outlined in Section 5.11 and Section 5.12 hereof. If the On-Site Monitor does not issue a Certificate of Compliance (as defined below) or a Temporary Certificate of Compliance (as defined below) for any Reviewed Improvement for which a Completion Notice was provided to it, the On-Site Monitor shall deliver to the Company a written list of all alleged deficiencies for any such improvement ("*Deficiency Notice*") within five (5) business days of the expiration of the Evaluation Period. If the Company agrees with the Deficiency Notice (in part or in whole), it shall address the identified deficiencies it agrees with and deliver a new Completion Notice to the On-Site Monitor. To the extent of any Company disagreement with respect to items covered by a Deficiency Notice, the procedures of Section 5.14 shall apply.

Section 5.11 Certificate of Compliance.

In the event the On-Site Monitor finds that a Reviewed Improvement has been constructed in accordance with Applicable Codes, it will issue to the Company a certificate of compliance confirming that the Reviewed Improvement has been constructed in accordance with Applicable Codes (a "*Certificate of Compliance*").

Section 5.12 Temporary Certificate of Compliance.

a. If during the Evaluation Period the On-Site Monitor determines that a Reviewed Improvement was constructed in accordance with Applicable Codes except for certain outstanding conditions such as landscaping, restoration, or other items that cannot be completed due to weather or similar reasons, it will issue to the Company a temporary certificate of compliance confirming that such Reviewed Improvement has been constructed in accordance with Applicable Codes (a "*Temporary Certificate of Compliance*"). A Temporary Certificate of Compliance may be issued

by the Town for a six (6)-month period and renewed by the board of the Town ("*Town Board*") for up to six (6) months at a time, as long as diligent efforts, weather permitting and subject to seasonal conditions and restrictions, are being made to complete compliance with all conditions.

b. When the Company has satisfied all outstanding conditions in accordance with Applicable Codes relative to a Reviewed Improvement for which the On-Site Monitor has issued a Temporary Certificate of Compliance, the Company shall submit a Completion Notice to the Town. In the event the Town finds that the Company has satisfied such conditions, it will issue to the Company, within five (5) business days of its receipt of the Completion Notice, a Certificate of Compliance confirming that such Reviewed Improvement has been constructed in accordance with Applicable Codes.

Section 5.13 Commercial Operation.

No power shall be sold from the Project for commercial purposes except in the context of construction-period testing, until a Certificate of Compliance or a Temporary Certificate of Compliance has been issued by the On-Site Monitor for the Panel Rack foundation (if applicable); *provided, however*, that power may be generated and sold for which (a) the Evaluation Period has expired and the On-Site Monitor has not issued a Certificate of Compliance, a Temporary Certificate of Compliance or Deficiency Notice, or (b) the On-Site Monitor has issued a Deficiency Notice that the Company agrees with, and the Company has addressed the deficiencies and delivered a new Completion Notice to it and a Certificate of Compliance or a Temporary Certificate of Compliance has been issued.

Section 5.14 Disputes Regarding Certificates of Compliance and Review of Building Plans for Reviewed Improvements.

a. If the Company and the On-site Monitor do not agree that either a Certificate of Compliance or Temporary Certificate of Compliance should be issued for a Reviewed Improvement, at the Company's election the Company and the Town, in consultation with the On-Site Monitor, shall engage a third party independent engineer with solar project experience to review the Company's Completion Notice and inspect the Reviewed Improvement in question. The cost of the independent engineer shall be split as follows: Company pays eighty percent (80%) and Town pays twenty percent (20%). The independent engineer shall have five (5) business days to complete its analysis. If the independent engineer issues a written determination confirming that it is satisfied with the completeness of the Reviewed Improvement, the On-Site Monitor shall immediately issue a Certificate of Compliance. If the independent engineer issues a written determination confirming that it is not satisfied with the completeness of the installation, the On-Site Monitor shall either issue a Temporary Certificate of Compliance, if eligible as provided in Section 5.12(a), or the Company shall cure the indicated deficiencies as required by the independent engineer as quickly as reasonably practicable.

b. Any denial or approval with conditions of building plans, Certificate of Compliance or a Temporary Certificate of Compliance, shall be in writing and shall be issued within five (5) business days of the expiration of the Evaluation Period. The Company shall have the right to cure the indicated deficiency, and upon effecting the cure must submit a Completion Notice to the On-Site Monitor pursuant to Section 5.10, following which the Evaluation Period will begin.

Notwithstanding any remedy otherwise available, the Town and the Company agree that the denial or approval with conditions of building plans, Certificate of Compliance or a Temporary Certificate of Compliance, may be appealed to the Town Board, which shall issue a final determination of the appeal within thirty (30) days from the application of appeal, and if the Town Board upholds the denial or approval with conditions the Company finds unacceptable, the Company may seek mediation pursuant to Section 7.1 of this Agreement with the Town to review such denial or approval action; *provided however*, any such action or inaction by the Town Board shall not constitute a Default under this Agreement by the Town.

ARTICLE VI

DECOMMISSIONING

Section 6.1 Decommissioning.

The Parties acknowledge that the Company shall be obligated to decommission and remove the Project Facility at the end of its useful life in conformity with Applicable Codes and the Permit and that one or more Panels may, from time to time, need to be decommissioned and removed prior to the end of the useful life of the Project Facility ("*Decommissioning*"). Decommissioning of individual Panels or the Project Facility as a whole prior to the end of the useful life of the Project Facility shall be at the Company's sole discretion and the Company shall have no obligation to replace decommissioned Panels.

Section 6.2 Phasing of Decommissioning

The Company may provide the Decommissioning Security (as defined below) in separate amounts, corresponding to each construction phase of the Project as allowed by the Siting Permit. The amount of Decommissioning Security for each phase shall reflect the decommissioning costs associated with that specific phase. Each phased security will be established prior to the commencement of that phase and provided to the Town. The phased Decommissioning Security amounts shall be cumulative and added to the security from the prior phase. By the completion of all construction phases the total Decommissioning Security shall, in aggregate, equal the total net decommissioning cost for the entire Project.

Section 6.3 Restoration and Standard of Decommissioning.

Decommissioning shall also involve site restoration activities ("*Restoration*"). The standards of Decommissioning and Restoration shall be as required under 16 NYCRR 1100-6.6 and the Permit and will be detailed as part of the decommissioning and site restoration plan that will be developed, filed, and approved as a compliance filing in accordance with the Article VIII Process (the "*Decommissioning and Site Restoration Plan*"). The Company shall provide the Town a copy of the Decommissioning and Site Restoration Plan once filed so that it may be attached hereto as Exhibit E. The Company's responsibility for Restoration in the context of Decommissioning shall not extend beyond the requirements of the Decommissioning and Site Restoration Plan.

Section 6.4 Voluntary Decommissioning.

If the Company determines to decommission a Panel, and if permitted or required by the Permit, it shall so notify the Town in writing (a "*Decommissioning Notice*"). The Panel shall stop generating electricity on or before the date stated in the Decommissioning Notice.

Section 6.5 Failure to Perform Decommissioning and Restoration.

In the event the Company fails to perform necessary Decommissioning and Restoration activities and the Town elects, at its option, to carry out such Decommissioning activities in accordance with the terms of the Decommissioning and Site Restoration Plan on the Company's behalf, the Company hereby affirms that, pursuant to the real property agreements held by the Company, Town will have the necessary access rights to carry out such Decommissioning, including the right to use the Company's easements and access rights to carry out any Decommissioning the Town has a right to conduct; *provided, however*, that the Town's rights as granted herein shall be concurrent with and derived from the Company's rights set forth in, and shall be subject to the terms of, the agreements originally granting the Company such easement or access rights. The Company, to the extent permitted, will take commercially reasonable efforts not to allow its access rights or easements to any portion of the Project Facility to expire or be terminated until Decommissioning and Restoration of the site have been completed. Notwithstanding the foregoing or any other provision of this Agreement, nothing herein shall be construed to limit, restrict, or waive any powers, authorities, rights, or remedies available to the Town under the applicable Town Code, local laws, or the laws of the State of New York, including but not limited to enforcement powers, police powers, zoning authority, or any other governmental rights, all of which are expressly reserved and may be exercised independently of or cumulatively with the rights set forth in this Agreement.

Section 6.6 Expense of Decommissioning.

In the event the Town carries out Decommissioning and Restoration activities pursuant to Section 6.5, the Company shall indemnify the Town for expenses actually incurred by it in connection with such Decommissioning and Restoration activities, net of any salvage value obtained by the Town for decommissioned components of the Project. Additionally, the Company shall reimburse the Town for all costs and expenses incurred by the Town in connection with its review, oversight, and monitoring of the Company's performance of Decommissioning and Restoration activities, including but not limited to engineering, environmental consulting, legal, and other professional services retained by the Town to ensure compliance with the Decommissioning and Site Restoration Plan. The Town shall submit to the Company invoices for any such expenses on a monthly basis. The Company shall pay the undisputed amount of all invoices within forty-five (45) days of receipt.

Section 6.7 Decommissioning Security.

a. Establishment of Decommissioning Security. The Decommissioning and Site Restoration Plan and the Permit will require the Company to provide the Town financial security for Decommissioning ("*Decommissioning Security*"). The Decommissioning and Site Restoration Plan will include the amount of such Decommissioning Security, a form of Decommissioning

Security (which may be a performance bond or letter of credit), the date by which the Decommissioning Security must be put in place, and requirements for potential adjustment thereof during the Term.

b. Use of Decommissioning Security. The Town shall have immediate and unrestricted access to the Decommissioning Security for the purpose of carrying out and completing Decommissioning and Restoration whenever the Company fails to do so as required by this Agreement. The Town shall be the sole beneficiary of the Decommissioning Security.

c. Expiration. The Company shall maintain the Decommissioning Security pursuant to the terms of this Agreement until Decommissioning and Restoration is complete or as otherwise required by the Permit.

d. Bankruptcy and Decommissioning Security. The Decommissioning Security established pursuant to the terms of this Agreement shall not be subject to claims or encumbrances of the Company's' secured or unsecured creditors nor considered to be property of a bankruptcy estate.

ARTICLE VII

DISPUTE RESOLUTION

Section 7.1 Dispute Resolution.

Except for disputes covered by Section 5.14 and Section 8.1 hereof, in the event of a dispute concerning compliance with this Agreement that cannot be resolved by good faith negotiations, the Company and the Town agree that they will engage in alternative dispute resolution in the form of non-binding mediation with a mutually selected mediator, the cost of which shall be split as follows: Company pays eighty percent (80%) and Town pays twenty percent (20%). In the event the dispute concerns the Host Fee amount owed, the Company shall pay the Town the portion of the Host Fee amount not in dispute and shall deposit the disputed amount with an escrow agent mutually selected by the Parties, pending the outcome of the alternative dispute resolution. In no event shall a Default under this Agreement constitute a default under the PILOT Agreement.

ARTICLE VIII

TERMINATION

Section 8.1 Termination.

Except as otherwise provided in this Agreement, the Company may elect, in its sole and absolute discretion, to immediately suspend any and all payments hereunder or terminate the Agreement, if:

a. Prior to the Commencement of Construction:

(1) a final and non-appealable Permit for the Project is not issued by ORES, or

(2) intentionally deleted

(3) the Company determines that the Project would be uneconomic and provides written notice to the Town that it no longer intends to construct the Project.

b. Following the Commencement of Construction:

(1) the Town modifies or adopts regulations governing construction or operation of the Project, or otherwise imposes a requirement, restriction or condition on construction or operation of the Project, that is reasonably demonstrated to materially interfere with construction or operation of the Project or which is reasonably demonstrated to require the Company to materially change its construction or operations to the detriment of it or the Project AND (i) the Company provides written notice to the Town that it no longer intends to construct the Project or complete construction of the Project and (ii) the Company completes Decommissioning and Restoration of any construction of the Project that has begun or been completed, or

(2) ORES rescinds or modifies, or a court of competent jurisdiction or legislation is passed by the New York State Legislature that effectively rescinds or modifies, the terms and conditions of the Permit in a manner that is reasonably demonstrated to materially interfere with construction or operation of the Project or which requires the Company to materially change its construction or operations to the detriment of it or the Project AND (i) the Company provides written notice to the Town that it no longer intends to construct the Project or complete construction of the Project and (ii) the Company completes Decommissioning and Restoration of any construction of the Project that has begun or been completed; or

(3) the Company completes Decommissioning and Restoration of the Project.

The Company reserves its rights to initiate a judicial challenge to any attempt to modify or terminate this Agreement or any relevant permit(s), certificate(s), regulations, or actions relating to the Project, which judicial challenge shall not serve as a waiver of its right to terminate the Agreement in accordance with this Section 8.1. Except for a termination by mutual agreement of the Parties, a termination of this Agreement may trigger termination of the PILOT Agreement and the Company shall use commercially reasonable efforts to ensure that the PILOT Agreement includes a provision that the PILOT Agreement shall be terminated upon termination of this Agreement. Nothing herein shall constitute an admission on the part of the Company that the Town has the power or authority to adopt or impose any such permit, certificate, regulation, requirement, restriction or condition regarding the Project. Except for obligations that explicitly survive the termination of this Agreement and the Company's obligations under ARTICLE VI regarding decommissioning, the Company shall have no further obligations under this Agreement following termination.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.1 Notice of Default.

In any case where any Party has defaulted under this Agreement ("*Default*"), any non-defaulting Party negatively impacted by the claimed Default shall provide written notice to the defaulting Party within thirty (30) days of such Default ("*Notice of Default*"). Each monetary Notice of Default shall state the amounts, to the extent known, of any payments that are then claimed to be in Default.

Section 9.2 Company Right to Cure.

For any monetary Default, the Company shall have the right to cure any such Default and must cure such Default within thirty (30) days of its receipt of a Notice of Default. For any non-monetary Default, the Company shall have the right to cure any such Default and must cure such Default within ninety (90) days of its receipt of a Notice of Default, unless such Default is not capable of cure within ninety (90) days, in which event the Company may request an extension of the cure period, which extension shall be granted by the non-defaulting Party impacted by the Default so long as the Company has commenced a cure and proceeded diligently to effect such cure. The non-defaulting Party impacted by the Default may further extend the time to cure in its discretion, acting reasonably.

Section 9.3 Town Right to Cure.

The Town shall have the right to cure any Default by it and must cure all such Defaults within thirty (30) days of its receipt of the notice unless such Default is not capable of cure within thirty (30) days, in which event the Company shall give the Town an additional sixty (60) days to cure provided the Town has commenced a cure and proceeded diligently to effect such cure. If the Town fails to cure such Default within the time allowed, the Company's payment obligations under this Agreement shall be suspended until such Default is cured: *provided, however*, that the Company shall deposit such suspended Host Fee amount with an escrow agent mutually selected by the Parties, with such amounts to be released from such escrow once the Default is cured.

Section 9.4 Financing Party Right to Cure.

The Town agrees, notwithstanding any other provision herein, whenever any Default hereof shall have occurred and be continuing with respect to this Agreement, the Financing Party (as defined below) shall have the same right as the Company to cure any such Default as set forth below.

a. Financing. For the purposes of this Agreement, the terms "*Mortgage*" or "*Mortgages*" shall include any mortgage, leasehold mortgage, purchase money mortgage or other security instrument or instruments secured by the Project Facility and used in the jurisdiction in which the Project Facility is located, such as, without limitation, mortgages, deeds of trust, financing statements, assignments of leases, rents and/or profits, security agreements and other

documentation which a lender or tax equity investor may require, and the term "*Financing Party*" shall mean any entity or group of entities (and their agents and representatives, if applicable) who has made or will make a loan to or otherwise provides financing (including tax equity financing) to Company (or any affiliate thereof) with respect to the Project. With respect to any such Mortgage, so long as such Mortgage shall remain unsatisfied of record or until written notice of satisfaction is given by the Financing Party to the Town, the following provisions shall apply.

b. Service of Notices on Financing Party. The Party claiming Default shall simultaneously serve a copy of any Notice of Default upon the Financing Party, and no such notice or other communication to the Company shall be deemed received unless a copy is so served upon the Financing Party in the manner provided in this Agreement for the giving of notice. This Section 9.4 shall only apply to any Financing Party that the Company has identified in writing to the Town in the manner provided in this Agreement for the giving of notice.

c. In the event of any Default by the Company under this Agreement, the Financing Party shall have thirty (30) days following the Company's cure period for a monetary Default, and ninety (90) days following the Company's cure period for any other Default, after Notice of Default is received by the Financing Party, to cure or to cause to be cured the Default complained of. Each Notice of Default with respect to a monetary Default shall state the amounts of any payments that are then claimed to be in Default.

d. If, before the expiration of Financing Party's cure period as provided above, Financing Party shall have notified the Party claiming Default in writing of its agreement to pay or cause to be paid to such Party, within thirty (30) days after the expiration of Financing Party's cure period, in the case of a monetary Default, all payments in this Agreement provided for and then in default, and/or in the case of non-monetary Default, shall have agreed within forty five (45) days to commence or cause to be commenced the cure of such non-monetary Defaults, if any are then in Default (other than Defaults which by their nature cannot be cured), and shall prosecute or cause the prosecution of same to completion with reasonable diligence (respectively, the "*Extended Cure Period(s)*"), then the Party claiming Default shall not exercise any of its rights and remedies under this Agreement until expiration of the applicable Extended Cure Period.

e. As between the Company and the Town, the Company shall be responsible for giving the Financing Party notice of any mediation, arbitration or other proceeding or dispute by or between the Parties hereto, and the Financing Party shall have the right to intervene therein and be made a party to any such mediation, arbitration or other proceeding.

f. Nothing in this Section shall toll the running of interest or late fees while either the Company or the Financing Party is attempting to cure a monetary Default.

Section 9.5 Exercise of Remedies.

Upon the occurrence of an uncured Default as specified under this Agreement, the affected non-Defaulting Party may, at its sole discretion, elect to seek through mediation pursuant to Section 7.1 of this Agreement: (a) specific performance by the Defaulting Party of any obligation the Defaulting Party has failed to discharge, or (b) payment by the Defaulting Party of any amounts for which Default is claimed. Remedies under this Agreement may only be pursued by Parties

having provided a Notice of Default and any such remedy shall only apply to the Party providing such Notice of Default. This Agreement shall continue and remain in full force and effect as to all Parties not involved in the claimed Default.

Section 9.6 No Acceleration.

Upon the occurrence and during the continuation of an Event of Default hereunder, the Town shall not have the right to accelerate future Host Fee payments not yet due and payable as of the date of such exercise of remedies.

Section 9.7 Estoppel Certificates.

The Town, within ten (10) business days after a request in writing by the Company, shall furnish a written statement, duly acknowledged, that this Agreement is in full force and effect and that there are no Defaults hereunder by the Company, or if there are any Defaults, such statement shall specify the Defaults the Town claims to exist.

Section 9.8 Force Majeure.

a. As used in this Agreement, "*Force Majeure Event*" means causes or events that are beyond the reasonable control of, and without the fault or negligence of, the Party claiming such Force Majeure Event, including, without limitation, pandemics, natural disasters, fire, lightning strikes, earthquake, acts of God, unusually or unseasonably severe actions of the elements such as snow, floods, hurricanes, or tornadoes, causes or events affecting the performance of third-party suppliers of goods or services to the extent caused by an event that otherwise is a Force Majeure Event under this Section 9.8, sabotage, terrorism, war, riots or publics disorders, strikes or other labor disputes, partial or entire failure of utilities, and actions or failures to act (including expropriation and requisition) of any governmental agency, to the extent such cause or event prevents or delays performance of any obligation imposed on the Party claiming such Force Majeure Event.

b. Notwithstanding anything to the contrary in this Article, no Party will be in breach or liable for any delay or failure in its performance under this Agreement to the extent such performance is prevented or delayed due to a Force Majeure Event, provided that: (1) the non-performing Party provides the other Party written notice within a reasonable period of time of the commencement of the Force Majeure Event, which notice shall include details describing the particulars of the occurrence of the Force Majeure Event; (2) the delay in performance will be of no greater scope and of no longer duration than is directly caused by the Force Majeure Event; (3) the Party whose performance is delayed or prevented proceeds with commercially reasonable efforts to overcome the events or circumstances preventing or delaying performance; and (4) when the performance of the Party claiming the Force Majeure event is no longer being delayed or prevented, that Party provides the other Parties written notice to that effect.

c. Notwithstanding the foregoing, the occurrence of a Force Majeure Event shall not excuse, suspend, or delay the Company's obligation to make any monetary payments due under this Agreement, including Host Fee payments due to the Town, unless such Force Majeure Event (i) results in a material interruption of the Facility's ability to generate electricity, and (ii) continues for a period of more than 180 consecutive days.

(1) "Material Interruption" means a reduction in the Facility's ability to generate electricity such that, as a direct result of a Force Majeure Event, the Facility is unable to produce at least fifty percent (50%) of its expected output over a period of thirty (30) consecutive days.

(2) During any period in which a Force Majeure Event results in a Material Interruption, the Host Fee shall be prorated based on (i) the percentage of the Facility's operational capacity relative to the total installed capacity, and (ii) the duration of such interruption. For purposes of this Agreement, the prorated Host Fee shall be calculated as:

Annual Host Fee × (Operational Capacity ÷ Installed Capacity) × (Days of Material Interruption ÷ 365).

'Operational Capacity' shall mean the portion of the Facility, expressed in MW AC, that is capable of generating electricity during the applicable period

ARTICLE X

ASSIGNMENT

Section 10.1 Assignment.

a. The Company may, without the consent of the Town: (a) assign this Agreement in connection with any sale or transfer of the Project, so long as any required New York Public Service Commission approval is received for such sale or transfer, to any (i) purchaser or successor in and to the Project, (ii) affiliate or subsidiary of the Company that is controlled by, controlling or under common control with the Company, or (iii) persons or entities providing financing for the Project (including any tax equity investor) ("*Lender*", and such purchaser, affiliate, and Lender are collectively defined as a "*Successor*"), provided such Successor assumes and agrees to be bound by this Agreement by executing and submitting to the Town a notice of assignment and assumption of this Agreement, a form of which is attached hereto as Exhibit F, and (b) pledge, encumber, hypothecate, mortgage, grant a security interest in and collaterally assign this Agreement to any to any Lender as security for the repayment of any indebtedness and/or the performance of any obligation whether or not such obligation is related to any indebtedness (a "*Lender's Lien*"). A Lender shall have the absolute right to: (a) assign its Lender's Lien; (b) take possession of and operate the Project or any portion thereof in accordance with this Agreement and perform any obligations to be performed by Company or a Successor hereunder; or (c) exercise any rights of Company hereunder. The Town shall reasonably cooperate with the Company, its affiliates, any Successor from time to time, including, without limitation, by entering into a consent and assignment or other agreements with such Successor and the Company in connection with any collateral assignment on such terms as may be customary under the circumstances and shall reasonably be required by such Successor. In the event this Agreement is assigned to a Successor, the Company shall have no further obligations hereunder, except for any obligations outstanding on the date of the transfer. Nothing herein shall limit in any way the right of the owners of the Company to sell or otherwise transfer (including by merger or consolidation with any other entity) all or a portion of their ownership interests in the Company.

The Town may transfer or assign any of its rights under this Agreement, provided that such transfer or assignment is due to a Town-related financing transaction, without the prior written consent of the Company. The Company shall cooperate with the Town from time to time, including, without limitation, by entering into a consent and assignment or other agreements with the Town and the financing parties involved with any such financing or securitization in connection with any collateral assignment on such terms as may be customary under the circumstances and shall reasonably be required by the involved financing parties, subject to the Company's approval of the forms of such documents.

ARTICLE XI

NOTICES

Section 11.1 Notices.

All notices, demands, requests, consents, or other communications provided for or permitted to be given pursuant to this Agreement shall be in writing and shall be mailed, communicated by electronic mail, or delivered to the Parties at the respective address set forth below:

a. Notices to the Town:

Town of Burke
5165 State Rt. 11
PO Box 121
Burke, NY 12917
Attn: Supervisor

With a copy to:
Attn: The West Firm, PLLC
Union Station
575 Broadway, 3rd Floor
Albany, New York 12207
Attn: Thomas S. West

b. Notices to the Company:

Brookside Solar, LLC
292 Madison Avenue, 15th Floor
New York, NY 10017

With a copy for Permit-related and compliance matters to:

Young/Sommer LLC
500 Federal Street, 5th Floor
Troy, New York 12180

Attn: James A. Muscato

All such notices, demands, requests, consents, or other communications shall be deemed to have been duly given when transmitted by electronic copy (with read receipt) or personally delivered or, in the case of a mailed notice, upon receipt, in each case addressed as aforesaid. Each of the Parties may from time to time change its address for notices by providing notice of such change to the other Parties given in accordance with this Section.

ARTICLE XII

FIRE PROTECTION CONTROL AND SAFETY

Section 12.1 Annual Meetings with Fire Chief. Within thirty (30) days prior to the Commencement of Construction and then on at least an annual basis thereafter, the Company will meet with the fire chief of the fire company where the Project is located in the Town, to review current access, training needs, and other emergency coordination related issues. The Company shall invite appropriate County representatives to these meetings as well.

Section 12.2 Emergency Response Plan. Within thirty (30) days prior to the Commencement of Construction, the Company shall provide a copy of the approved Emergency Response Plan to the Franklin County Emergency Management, the fire company where the Project is located in the Town, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The Company is responsible for ensuring any updates to the approved Emergency Response Plan are provided to the above holders of the Emergency Response Plan within a reasonable time.

Section 12.3 Emergency Response Training. Initial and annual site specific training on the Emergency Response Plan will be provided by the Company for the Code Enforcement Officer and local and county emergency responders with reasonable and pre-approved expenses for such training covered by the Company.

Section 12.4 Fire Code Waivers. The Code Enforcement Officer pursuant to its authority provided by Exception 2 of the 2020 Fire Code of New York State ("*Fire Code*") Section 503.1.1 approves the exemption of the Project from strict

compliance with the fire apparatus access road requirements contained in Sections 503.1.1 and 503.2.1 of the Fire Code.

ARTICLE XIII

LIABILITY COVERAGE AND INDEMNIFICATION

Section 13.1 Insurance. The Company will maintain insurance for claims arising out of injury to persons or property, relative to either sudden and accidental occurrences or non-sudden and accidental occurrences, resulting from the operation of the Project. The Company shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type; minimum Commercial General Liability coverage limits of $5,000,000 per occurrence and in the aggregate, limits can be achieved with a combination of primary and excess policies. The Company will provide proof of such insurance in the form of a certificate of insurance, or proof of self-insurance annually upon the Town's request after Commercial Operation of the Project.

Section 13.2 Indemnification of Town. Except to the extent caused by acts or omissions, negligence, illegal or willful misconduct of the Town or its officers, agents, employees, or subcontractors, the Company agrees that it will indemnify and hold harmless the Town and its officers and employees from and against any and all liability, actions, damages, claims, demands, judgments, losses, costs, expenses and fees, including reasonable attorneys' fees (collectively "*Losses*") for injury or death to third party persons or for loss or damage to third party property, and will defend the Town and its officers and employees in any court action, administrative proceeding or appeal in connection with such Losses, whether or not finally adjudicated and including any settlement thereof, provided and to the extent such losses result from or arise out of any negligent act or omission of the Company or its officers, sub-contractors, agents or employees; and further provided such Losses arise out of or occur in connection with the construction and operation of the Project. In the event a claim, action, demand, suit or proceeding is instituted against the Town by any third party, pursuant to which the Town is entitled to be indemnified hereunder, the Town shall immediately notify the Company in writing and contemporaneously provide the Company with a copy of the written documents presented by such third party.

Section 13.3 Indemnification of the Company. The Town shall indemnify, hold harmless and defend the Company and its owners, affiliates, officers, employees, subcontractors and agents from and against any and all Losses caused by, arising out of or incurred as a result of: (a) the negligent acts or omissions or willful misconduct of the Town, (b) material breach of any obligation, covenant or undertaking of the Town contained herein, or (c) any misrepresentation or breach of warranty on the part of the Town pursuant to this Agreement, except to the extent caused by the negligence, illegal or willful misconduct of the Company or its officers, directors, agents, employees or subcontractors.

Section 13.4 Cooperation in Defense Against Litigation. Should any third party bring a Federal or State suit or proceeding against the Town arising out of or relating to the Project, including a proceeding pursuant to Article 78 of the New York Civil Practice Law and Rules regarding the Project or this Agreement, the Company and the Town shall cooperate in the defense of said action.

The Town shall have the right to select its counsel, provided that counsel has experience in this area of law but the Company shall have the exclusive right to control the defense against such action pursuant to Section 13.4 hereof. The Company agrees to fund reasonable attorney's fees and expert's fees and costs incurred by the Town in defense of any such action unless the action is brought by the Company.

Section 13.5 Indirect Damages Waiver. In no event shall either Party be liable to the other under or in connection with this Agreement, irrespective of whether alleged to be by way of indemnity, as a result of breach of contract, tort, (including negligence), strict liability, or any other legal theory, for any incidental, special, indirect, exemplary or consequential damages of any nature whatsoever, or loss of profits or revenues, loss of use, loss of opportunity, loss of goodwill, cost of substitute facilities or services, cost of capital or financing, regardless of whether any of the foregoing are found to be direct or indirect, nor for any special, indirect, punitive, exemplary or incidental damages of any kind arising out of or related to this Agreement.

ARTICLE XIV
MISCELLANEOUS

Section 14.1 No Waiver.

The failure of any Party to insist on the strict performance of any term or provision hereof will not be deemed a waiver of the right to insist on strict performance of any other term or provision, nor will it be deemed a waiver of any subsequent Default. Unless specifically stated, the selection of any specific remedy hereunder shall not be deemed an election of remedies limiting any Party's right to seek any other remedy otherwise allowed by this Agreement.

Section 14.2 Applicable Law and Venue.

This Agreement will be governed by the laws of the State of New York. Venue for any dispute arising under this Agreement and not settled by mediation shall be solely in the New York State Supreme Court for Franklin County.

Section 14.3 No Recourse: Special Obligation.

All obligations of the Parties contained in this Agreement shall be deemed to be the corporate obligations of the respective Parties and not obligations of any member, officer, director, official, agent, servant, employee, or affiliate of the Parties. No recourse upon any obligation contained in this Agreement, or otherwise based on or in respect of this Agreement, shall be had against any past, present, or future member, officer, director, official, agent, servant, employee, or affiliate of the Parties.

Section 14.4 Entire Agreement.

Unless supplemented or otherwise amended in writing by the Town and the Company in accordance with the laws of the State, this Agreement constitutes the Parties' entire agreement

with respect to the subject set forth herein, and no other agreements, written or unwritten, express or implied, will be deemed effective.

Section 14.5 Amendment.

No amendment, modification or alteration of the terms or provisions of this Agreement shall be binding unless the same shall be in a writing that specifically references this Agreement and that is duly executed by the Parties.

Section 14.6 Severability.

If any clause, provision, section or article of this Agreement, or a portion thereof, is held invalid, inoperative or unenforceable by any court or regulatory authority of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by applicable law. Notwithstanding the foregoing, if any clause, provision, section or article of this Agreement, or a portion thereof, is held invalid, inoperative or unenforceable by any court or regulatory authority of competent jurisdiction, the Parties shall:

a. Promptly meet and negotiate a substitute for such clause, provision, section or article, which will to the greatest extent legally permissible, effect the original intent of the Parties therein.

b. Negotiate such changes in, substitutions for, or additions to the remaining provisions of this Agreement as may be necessary to effect the original intent of the Parties in the clause, provision, section or article declared invalid.

Section 14.7 Binding Effect.

This Agreement shall inure to the benefit of and shall be binding upon each of the Parties and, as permitted by this Agreement, their respective successors and permitted assigns.

Section 14.8 Headings.

The headings of sections and paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Agreement or to affect the construction hereof.

Section 14.9 Counterparts.

This Agreement may be executed in any number of counterparts each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

Section 14.10 Further Assurances.

From time to time and at any time after the effective date of this Agreement, each of the Parties, at its own expense, shall execute, acknowledge and deliver any further instruments, documents or other assurances reasonably requested by any other Party, and shall take any other

action consistent with the terms of this Agreement that may reasonably be requested by another Party to evidence or carry other the intent of or to implement this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year above written.

Town of Burke

By: Timothy Griffen
Name: Timothy Griffen
Tile: Supervisor - Deputy

Brookside Solar, LLC

By: _____
Name: _____
Title: _____

List of Exhibits

Exhibit A	Town Approving Resolution
Exhibit B	Solar Rates
Exhibit C	Form of Installed Capacity Certification
Exhibit D	Scope of Services
Exhibit E	Decommissioning and Site Restoration Plan
Exhibit F	Form of Notice of Assignment and Assumption of Host Community Agreement

Exhibit A

Town Approving Resolution

Exhibit B

Solar Rates

Solar Rate ($/MWac Installed Capacity)

Year	Solar Rate
1	$1.900.00
2	$1.938.00
3	$1.976.76
4	$2.016.30
5	$2.056.62
6	$2.097.75
7	$2.139.71
8	$2.182.50
9	$2.226.15
10	$2.270.68
11	$2.316.09
12	$2.362.41
13	$2.409.66
14	$2.457.85
15	$2.507.01
16	$2.557.15
17	$2.608.29
18	$2.660.46
19	$2.713.67
20	$2.767.94
21	$2.823.30
22	$2.879.77
23	$2.937.36
24	$2.996.11
25	$3.056.03

Exhibit C

Form of Installed Capacity Certification

[Date]

Town of Burke
5165 State Rt. 11
PO Box 121
Burke, NY 12917
Attn: Supervisor

Re: Brookside Solar, LLC Project Installed Capacity Certification.

Brookside Solar, LLC hereby certifies that as of the date above, the Brookside Solar solar-powered electric generating facility (the "*Project*") has an installed nameplate electric generating capability ("*Installed Capacity*"), measured in megawatts alternating current ("*MWac*"), being the total installed capacity in the Tax Jurisdiction groups as follows:

Tax Jurisdiction Group	Installed Capacity (MWac)
Town/ CSD/County	

Brookside Solar, LLC

By: _____
Name:
Title:

_____
Name:
Title:

[NOTE: The Installed Capacity figures shown above are preliminary estimates. The Installed Capacity in each Tax Jurisdiction group would be reviewed/finalized after development of final building plans for the Project.]

Exhibit D

Scope of Services of On-Site Monitor

The services provided by the On-Site Monitor in connection with the Project that are subject to reimbursement by the Company shall be limited to the following:

1. Review of the Company's building plans for those portions of the Project subject to State Fire and Building Codes.

    - Building Code: Ground-mounted utility-scale photovoltaic arrays are not subject to the Building Code.
    - Fire Code: For ground-mounted utility-scale photovoltaic arrays, a clear, brush-free area of 10 feet (3048 mm) must be maintained, but other setback requirements in the Fire Code do not apply. Ground-mounted photovoltaic arrays are only subject to certain provisions in Chapter 5 of the Fire Code on fire apparatus access roads and may be subject to emergency responder radio coverage and key boxes provisions if required by the Fire Code official.

2. Recommending approval of building plans for those portions of the Facility subject to the Applicable Codes.

3. Providing the Company and the building official's office with written copies of approvals.

4. Assisting the Town CEO or any of the representatives of the Town CEO with inspecting the Company's compliance with Applicable Codes.

5. Certifying compliance with Applicable Codes, which shall be evidenced by the issuance of Certificate(s) of Completion or Deficiency Notice(s), copies of which will be kept on file in the building official's office.

6. Provision of witness and field testing of Reviewed Improvements relative to compliance with Applicable Codes.

The following conditions are understood to govern the On-Site Monitor's involvement in the review of plans for Reviewed Improvements and construction phases of the Project:

1. Neither the Town nor the On-Site Monitor will be responsible for construction means, methods or techniques, or choice of or source of supply for construction or landscaping materials.

2. Neither the Town nor the On-Site Monitor will be responsible for construction site safety.

3. The Town and the On-Site Monitor shall have no approval authority over the Project work and/or immediate comment participation unless the observation deals with public safety or building code or other compliance issues.

4. The Town and the On-Site Monitor shall have no approval authority over the Company's choice of labor or responsibility for monitoring Project labor.

5. The On-Site Monitor agrees to work within Project scheduling parameters established by the Company to the maximum extent possible, provided that reasonable advance schedule notification is received, and shall provide adequate staffing to enable review and approval of multiple site and contemporary Reviewed Improvements construction.

6. The On-Site Monitor is not an agent for or employee of the Company or an engineer of record for the Project, nor does the work of the On-Site Monitor in any way limit the Company's obligation under New York law to use a licensed engineer where required.

Exhibit E

Decommissioning and Site Restoration Plan

To be added once upon approval by ORES

Exhibit F

Form Notice of Assignment and Assumption of Host Community Agreement

NOTICE OF ASSIGNMENT

Town of Burke
5165 State Rt. 11
PO Box 121
Burke, NY 12917
Attn: Supervisor

Re: Brookside Solar, LLC – Assignment and Assumption of Host Community Agreement.

[_____], a limited liability company duly organized and existing under the laws of the State of [_____], and having an office at [_____] hereby provides notice to the above-named municipalities and school districts that as of [_____] it purchased or otherwise acquired all or substantially all of the assets of Brookside Solar, LLC. [_____] hereby assumes all obligations under the Host Community Agreement by and between Brookside Solar, LLC and the Town of Burke dated as of [_____] and agrees to be bound by its provisions and waives all claims regarding its validity.

[_____], a [_____] limited liability company
By:_____
Name:_____
Title:_____