

**AGREEMENT FOR PAYMENT IN LIEU OF TAXES FOR  
PERSONAL PROPERTY**

**GHTJA04 LLC (Grasshopper) – 17 Wilson Street**

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES FOR PERSONAL PROPERTY (this “Agreement”) is made, entered into, on [DATE] and shall become effective on the Commercial Operation Date (defined below) (the “Effective Date”) by and between GHTJA04 LLC, a Delaware limited liability company, registered as a foreign limited liability company in the Commonwealth (“Developer”), and the Town of Hopkinton, a municipal corporation duly established and located in the Commonwealth of Massachusetts (the “Town”). Developer and the Town are collectively referred to in this PILOT Agreement as the “Parties” and are individually referred to as a “Party”.

WHEREAS, Developer plans to build and operate a solar electric generating facility (the “Project”) with an expected nameplate capacity of approximately [INSERT], or such other capacity as may be determined after the final design and engineering plans are completed, on a portion of the land known and numbered as 17 Wilson Street, shown as Assessors’ Maps U12 1 A, U12 2 A, U11 30 0 and U11 26 B (the “Property”) leased by the Developer, as depicted on Exhibit A hereto;

WHEREAS, it is the intention of the Parties that Developer make payments to the Town for the term of this PILOT Agreement in lieu of personal property taxes, under the authority of and in accordance with General Laws Chapter 59, Section 5, Clause 45, as amended, and other application laws and regulations, including the regulations of the Massachusetts Department of Revenue adopted in connection therewith;

WHEREAS, because both Developer and the Town need an accurate projection of their respective expenses and revenues with respect to the personal property that is taxable under law relating to the Project, the Parties believe that it is in their mutual best interests to enter into this Agreement fixing the payments that will be made for the term of the Agreement with respect to all personal property for the Project;

WHEREAS, the Project consists of the following property: [INSERT]

WHEREAS, the Parties intend that, during the term of the Agreement, Developer will make payments on a fixed schedule, and that this Agreement will provide for the exclusive payments in lieu of such personal property taxes that Developer (or any successor owner of the Project) will be obligated to make to the Town with respect to the Project; provided, however, that the Parties do not intend for this Agreement to affect any direct payments for services provided by the Town to the Project, including but not limited to, water and sewer services, and similar payment obligations not in the nature of personal property taxes or substitutes for such taxes that Developer may otherwise be obligated to pay the Town;

WHEREAS, the Town is authorized to enter into this Agreement with Developer, as the culmination of good faith negotiations that anticipate that the payments in lieu of personal property taxes over the life of the Agreement will amount to the equivalent of the property tax payments that would otherwise be determined under General Laws Chapter 59 based upon the full and fair cash valuation of the Project; and

NOW THEREFORE, in exchange for the mutual commitments and other good and

valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. Payment in Lieu of Personal Property Taxes.

A. Developer agrees to make annual payments to the Town in lieu of personal property taxes (“PILOT”) beginning in year 2 of this Agreement. The PILOT payment for each contract year shall be calculated by applying the actual personal property tax rate for the contract year listed in column 1 of the Table below to the personal property value listed in column 2 of the Table below.

<b>Contract Year</b>	<b>Personal Property Value</b>	<b>Projected Annual Property Tax<sup>1</sup></b>
1	\$8,528,098	No PILOT Payment in Year 1 <sup>2</sup>
2	\$8,101,693	\$139,270
3	\$7,675,288	\$133,259
4	\$7,248,883	\$127,114
5	\$6,822,478	\$120,833
6	\$6,396,074	\$114,414
7	\$5,969,669	\$107,854
8	\$5,543,264	\$101,152
9	\$5,116,859	\$94,305
10	\$4,690,454	\$87,311
11	\$4,264,049	\$80,167
12	\$3,837,644	\$72,872
13	\$3,411,239	\$65,423
14	\$2,984,834	\$57,817
15	\$2,558,429	\$50,053
16	\$2,558,429	\$50,554
17	\$2,558,429	\$51,059
18	\$2,558,429	\$51,570
19	\$2,558,429	\$52,086
20	\$2,558,429	\$52,606
21	\$2,558,429	\$53,133
22	\$2,558,429	\$53,664

<sup>1</sup> This column is for reference purposes, only, based on a projected future personal property tax rate. The actual PILOT payment due pursuant to this Agreement shall be the amount calculated by applying the actual personal property tax rate for the contract year to the personal property value listed in column 2 for that contract year.

<sup>2</sup> The projected annual property tax in this non-PILOT payment year is \$145,148.

Contract Year	Personal Property Value	Projected Annual Property Tax <sup>1</sup>
23	\$2,558,429	\$54,200
24	\$2,558,429	\$54,742
25	\$2,558,429	\$55,290

Contract Year “1” in the above Table shall be the tax year during which the Project commences commercial operation (the “Commercial Operation Date” until the earlier of (i) removal of the Project from the Property or (ii) twenty-five years after the Commercial Operation Date (the conclusion of Contract Year “25” in the above Table). Each annual payment will be paid to the Town in four (4) equal installments on or before the first business day of August, November, February, and May of each fiscal tax year during the term of this Agreement and the annual payment amount and payment date will be noted on a quarterly bill issued by the Town to the Developer.

B. Developer shall pay all personal property taxes due and owing to the Town in Contract Year 1 as assessed and taxed in the normal course, and no payment in lieu of such tax has been contemplated by the Parties nor is required by this Agreement in Contract Year 1.

C. Each annual payment shall be made to the Town in four (4) equal installments on or before the first business day of August, November, February and May of each fiscal tax year during the term of this Agreement, and the annual payment amount and payment date and the Town’s wire instructions will be noted on a quarterly bill issued by the Town to the Developer. The first and last payments shall be pro-rated based on the number of days in the quarterly periods, respectively

2. Improvements or Additions; Retirements.

A. From and after the Commercial Operation Date and continuing throughout the term of this Agreement and any extension or renewal thereof, the Developer shall provide written notice to the Town of any improvement, addition, retirement or replacement of any personal to the Project, such notice to be provided within thirty (30) calendar days after such improvement, addition, retirement or replacement is installed and, if applicable, commissioned.

B. The Town, its officers, employees, consultants, and attorneys shall have the right to inspect the Project in connection with any such notice. If such improvement, addition, retirement or replacement adds value to the Project, as reasonably determined by the Hopkinton Board of Assessors, which determination shall include consideration of documentation relating thereto provided by Developer and reasonably acceptable to the Hopkinton Board of Assessors, the remaining tax payments shall be adjusted to reflect any increase in the value of the Project using the cost method.

C. To the extent that Developer retires or removes any capital improvements from the Project, retires or removes any personal property from the Project, or retires or removes any existing improvements, equipment or personal property from the Project, and such retirement or removal reduces the value of the Project after the Commercial Operation Date based upon documentation provided by Developer and reasonably acceptable by the Hopkinton Board of Assessors, the remaining tax payments will be adjusted to reflect any temporary or permanent

reduction in the value of the Project.

3. Inventory.

A. Within six (6) months after the Commercial Operation Date, Developer shall provide the Town with a comprehensive inventory of all personal property incorporated into the Project (the "Inventory").

B. The Town, its officers, employees, consultants, and attorneys shall have the right to inspect the Project in connection with the preparation of the Inventory.

C. Any written notice of an improvement, addition, retirement, or replacement given by Developer under Section 2 shall reference the Inventory and such a notice shall constitute an update to the Inventory.

D. The Town, its officers, employees, consultants, and attorneys will have the right to periodically inspect the Project on reasonable prior notice to Developer, subject to the Town's agreeing to comply with all reasonable Developer safety and security requirements, and to review documents in the possession of Developer that relate to the inventoried property for the purpose of verifying that Developer has accurately updated the Inventory.

4. Ordinary Maintenance. No additional payments in lieu of taxes will be due or required for replacement of equipment or machinery that is nonfunctional, obsolete or is replaced solely due to wear and tear or casualty or as part of scheduled or unscheduled maintenance, or equipment installed as required by or in response to any statute, law, regulation, consent decree, order or case mandating such additional items.

5. Payment Collection. The provisions of General Laws Chapter 60 and other applicable law shall govern the collection of any payments in lieu of taxes provided for in this Agreement as though they were personal property taxes due and payable to the Town.

6. Tax Status. The Town agrees that during the term of this Agreement, the Town shall not assess Developer for any personal property taxes with respect to the Project which Developer might otherwise be subject under Massachusetts law, and the Town agrees that this Agreement shall exclusively govern the payments of all personal property taxes and payments in lieu of such taxes that Developer will be obligated to make to the Town with respect to the Project, provided, however, that this Agreement is not intended to affect, and will not preclude, other assessments of general applicability by the Town for real property taxes with respect to the Property, excise taxes on vehicles due pursuant to General Laws Chapter 60A, and for services provided by the Town to the Project, including but not limited to, water and sewer services.

7. No Tax Abatement. The Developer shall not apply to the Town for any abatement of personal property taxes during the term of this Agreement.

8. Successors and Assigns. This Agreement shall be binding upon the successors and assigns of Developer, and the obligations created hereunder will run with the Project. Such purchaser, transferee or assignee shall notify the Town in writing of its address. Developer may record a notice of this Agreement in the applicable registry of deeds.

9. Statement of Good Faith. The Parties agree that the payment obligations established by this Agreement were negotiated in good faith in recognition of and with due consideration of the

full and fair cash value of the Project, to the extent that such value is determinable as of the date of this Agreement, in accordance with General Laws Chapter 59, Section 5, Clause 45, as amended. Each Party was represented by counsel in the negotiation and preparation of this Agreement and has entered into this Agreement after full and due consideration and with the advice of its counsel and its independent consultants. The Parties further acknowledge that this Agreement is fair and mutually beneficial to them because it reduces the likelihood of future disputes over personal property taxes, establishes tax and economic stability at a time of continuing transition and economic uncertainty in Massachusetts and the region, and fixes and maintains mutually acceptable, reasonable and accurate payments in lieu of taxes for the Project that are appropriate and serve their respective interests. The Town acknowledges that this Agreement is beneficial to it because it will result in mutually acceptable, steady, predictable, accurate and reasonable payments to the Town. Developer acknowledges that this Agreement is beneficial to it because it ensures that there will be mutually acceptable, steady, predictable, accurate and reasonable payments for the Project.

10. Additional Documentation and Actions. Each Party will, from time to time hereafter, execute and deliver or cause to be executed and delivered, such additional instruments, certificates and documents, and take all such actions, as the other Party reasonably requests for the purpose of implementing or effectuating the provisions of this Agreement and, upon the exercise by a Party of any power, right, privilege or remedy pursuant to this Agreement that requires any consent, approval, registration, qualification or authorization of any third party, each Party will execute and deliver all applications, certifications, instruments and other documents and papers that the exercising Party may be so required to obtain.

11. Invalidity. If any provision of this Agreement shall be found invalid for any reason in a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of this Agreement shall be deemed to be amended to the minimum extent necessary, so as to secure to the Parties the benefits thereof. The Parties understand and agree that this Agreement shall be void and unenforceable if (i) Developer is determined or declared by the Massachusetts Appellate Tax Board or a court of competent jurisdiction not to satisfy the requirements set forth in General Laws Chapter 59, Section 5, Clause 45; or (ii) this Agreement is not approved by Town Meeting, provided that any payments made hereunder by Developer before any such declaration or approval shall be and remain the property of the Town.

12. Notices. All notices, consents, requests, or other communications provided for or permitted to be given hereunder by a Party must be in writing and shall be deemed to have been properly given or served upon the personal delivery thereof, via courier delivery service or otherwise. Such notices shall be addressed or delivered to the Parties at their respective addresses shown below.

If to the Town:                      Town Manager  
    Town of Hopkinton  
    Town Hall  
    18 Main Street  
    Hopkinton, MA 01748

With a copy to:                      Hopkinton Town Counsel  
    Miyares and Harrington LLP  
    40 Grove Street, Suite #190  
    Wellesley, MA 02482

If to the Developer: [Insert]

With a copy to: [Insert]

Any such addresses for the giving of notices may be changed by either Party by giving written notice as provided above to the other Party. Notice given by counsel to a Party shall be effective as notice from such Party.

12. Applicable Law. This Agreement's validity, interpretation, construction, performance, and enforcement, without regard to Massachusetts' choice-of-law or conflicts-of-law principles or rules. Any claim or action arising under or relating to this Agreement may be brought only in Middlesex County Superior Court, and the Parties hereby agree that venue is proper, and shall only be proper, in that forum.

13. Covenants of Developer. During the term of the Agreement, Developer shall not voluntarily do any of the following: (a) seek to invalidate this Agreement, or otherwise take a position adverse to the purpose or validity of this Agreement; (b) convey, without the express consent of the Town, by sale, lease or otherwise any interest in the Property to any entity or organization that qualifies as a charitable organization pursuant to General Laws Chapter 59, Section 5, Clause 3; or (c) fail to pay the Town the amounts due hereunder when due in accordance with the terms of this Agreement.

14. Covenants of the Town. So long as Developer is not in breach of this Agreement during its term, the Town will not do any of the following: (a) seek to invalidate this Agreement or otherwise take a position adverse to the purpose or validity of this Agreement; (b) seek to collect from Developer any property tax with respect to the Property or the improvements thereon (including the Project) in addition to the amounts herein; or (c) impose any lien or other encumbrance upon the Property or the improvements thereon (including the Project) except as is expressly provided herein.

15. Representations of the Town. Subject to the terms of this Agreement and except as provided below, the Town represents, to the best of its knowledge and belief, that (i) it has secured all approvals of appropriate officers, boards and bodies necessary to duly authorize the execution, delivery and performance of this Agreement and its obligations hereunder, and (ii) it is not prohibited from entering into this Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement by the terms, conditions or provisions of any law as currently understood, any order of any court or other agency or authority of government, and (iii) this Agreement is a legal, valid and binding obligation of the Town and is enforceable in accordance with its terms, subject to applicable laws. Notwithstanding the foregoing, the parties acknowledge that this Agreement has not been approved by the Hopkinton Town Meeting, and is contingent upon such approval.

16. Representations of Developer. Developer represents that (i) it is duly organized and validly existing as a limited liability company under the laws of Delaware, and is authorized to conduct business in the Commonwealth of Massachusetts, and (ii) it has all requisite power and authority to enter into this Agreement and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement, (iii) the performance of its obligations hereunder will not violate, result in a breach of or constitute a default under any agreement or instrument to which Developer is a party or by which

Developer is bound; (iv) this Agreement constitutes the legal, valid and binding obligation of Developer enforceable in accordance with its terms, except to the extent that the enforceability may be limited by applicable bankruptcy, insolvency or other laws affecting other enforcement of creditors' rights generally or by general equitable principles; (v) as of the date of this Agreement, Developer satisfies the requirements set forth in General Laws Chapter 59, Section 5, Clause 45.

17. Termination. The Town may terminate this Agreement upon written notice to Developer in the event Developer fails to make timely payments hereunder on the date due and such failure continues for sixty days after Developer receives written notice of such failure from Town, provided that if the breach is cured within such sixty (60)-day period, the Agreement shall not be terminated.

18. Town Meeting Approval. The obligations of each Party under this Agreement are conditioned on approval of this Agreement by the Town's governing body.

19. No Waiver. Any Party's failure to enforce the provisions of this Agreement strictly shall not be construed as a waiver of any obligation in this Agreement.

20. Change in Law. If, as a result of a change in law, offsite solar photovoltaic electric generating facilities become wholly or partially exempt from personal property taxation, the provisions of this Agreement shall continue to be in full force and effect.

21. Multiple Counterparts. This Agreement may be executed in one or more counterparts each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

*[Remainder of Page Intentionally Blank]*

Executed under seal by the undersigned as of the day and year first written above, each of whom represents that it is fully and duly authorized to act on behalf of and bind its principals.



**EXHIBIT A**

Preliminary Depiction of the Project

[Insert]