

AMENDMENT NO. 1 TO OPTION AND SOLAR LEASE AGREEMENT

This **AMENDMENT NO. 1 TO OPTION AND SOLAR LEASE AGREEMENT** (this "*Amendment*") is made and entered into as of _____, 2023 (the "Effective Date"), by and between **THE TOWN OF NEW PALTZ**, a municipality of the State of New York, ("*Town*"), and **SL NEW PALTZ SOLAR I, LLC**, a New York limited liability company, ("*Lessee*"). Capitalized terms not defined herein are defined in the **OPTION AND SOLAR LEASE AGREEMENT**.

WHEREAS, the Lessee and Town entered into that certain **OPTION AND SOLAR LEASE AGREEMENT**, made and entered into as of the 16th day of November, 2021 (the "*Agreement*") for the lease of Town's premises for solar energy purposes, or the construction and operation of a certain groundmount photovoltaic solar electric generation facility (the "*Initial Project*");

WHEREAS, neither Town nor Lessee are in default under the Agreement and the Agreement is in full force and effect;

WHEREAS, Town and Lessee acknowledge that the Agreement was signed with an initial Project Size of 3.0 MW DC ("*Initial Project Size*") for the Initial Project ("*Initial Project*");

WHEREAS, Lessee and Town acknowledge that an Initial Interconnection Application ("*Initial Interconnection Application*") was submitted by Lessee to Central Hudson Gas & Electric Corporation ("*Central Hudson*") for 2,625 kW AC for the Initial Project;

WHEREAS, following the Initial Interconnection Application, Central Hudson's Coordinated Electric System Interconnect Review ("*CESIR*") required interconnection upgrade payments of \$1,504,739.74 or \$7,630,942.15, at the option of the Lessee;

WHEREAS, Town and Lessee acknowledge that, following discussions with Central Hudson, a 250 kW AC Adjusted Interconnection Application (the "*Adjusted Interconnection Application*") will be submitted following the execution of this Amendment for the Adjusted Project ("*Adjusted Project*");

WHEREAS, Town and Lessee acknowledge that due to the Adjusted Interconnection Application of 250 kW AC, the Initial Project Size will be decreased to the Adjusted Project Size of 350 kW DC ("*Adjusted Project Size*");

WHEREAS, Lessee and Town acknowledge that Planning and Zoning applications have been submitted by Lessee for the Initial Project, and any necessary additional Planning and Zoning applications or addenda will be submitted by Lessee for the Adjusted Project;

WHEREAS, Lessee and Town acknowledge that

NOW, THEREFORE, Town and Lessee do mutually hereby covenant and agree as follows:

1. Exhibits A, B and D attached below remain unchanged from the original Agreement.
2. Exhibits C and E attached below are restated and replace Exhibits C and E in the original Agreement.
3. The Project Manager Fee Payment of \$50,000 and the Option Fees for a total of \$20,000 shall be pro-rated from the Initial System Size to the Adjusted System Size.
4. The milestone schedule of payment of the Project Manager Fee Payment and of the Option Fees shall remain unchanged.
5. In addition to the terms of the Agreement and the obligations of Lessee and Town with respect to using the Town premises for solar energy purposes, Lessee will monitor New York Department of Public Service's energy storage program roadmap and inform the Town of any noteworthy updates with respect to the energy storage program.
6. All other provisions of the existing Agreement remain unchanged and in full effect.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

Signature Page

IN WITNESS WHEREOF, the respective duly authorized officers of the Parties have executed this Option and Solar Lease Agreement as an instrument under seal as of the Effective Date.

By: _____
SL New Paltz Solar I, LLC
Print Name: William C. Zachary
Print Title: Authorized Signatory

Town of New Paltz, New York

By: _____
Print Name: Neil Bettez
Print Title: Supervisor, Town of New Paltz

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EXHIBIT C

DESCRIPTION OF SYSTEM & GROUND COVER REQUIREMENTS

Section 1.

Lessee anticipates that the System size will be approximately 35,000 square feet in surface with the following characteristics:

1. Size (kWdc): 350.0
2. Size (kWac): 250.0
3. Yield (kWh/kW): 1,292

Section 2.

Prior to the Commencement Date, Lessee will provide to the Town the following remaining information with respect to the System, based on the final, approved design:

1. Solar Panel Manufacture, Model
2. Module Count
3. Array Area, Landfill Areas (acres)
4. Array Area, Adjacent to Landfill Areas (acres)
5. Inverters Manufacture, Model
6. Inverter Count (units)
7. DC:AC ratios
8. Racking Type
9. Racking Angle, Fixed
10. Racking Angle, Tracking

Section 3.

Lessee to comply with the following Ground Cover Requirements:

1. Restoration Methods, Landfill – DEC and UCRRA approved vegetation only
2. Restoration Methods, Adjacent to Landfill Areas
 - a. Include low-till methods, selected grubbed and stump remnants,
 - b. Include Native, Pollinator Friendly species, high quality, high level of biodiversity
3. Fenced Enclosure, Landfill
 - a. inclusive of minimum one (1) sub-fenced pollinator habitat areas, minimum 300 ft² with separate gate, top protection
 - b. include fencing areas with small animal access
4. Fenced Enclosure, Adjacent to Landfill Areas
 - a. Minimum 10% fenced enclosure surplus set-aside
 - b. Inclusive of minimum one (1) pollinator habitat areas, for a total of up to 300

- ft² with separate gates, top protection
- c. Include fencing areas with small animal access
5. Mowing on Landfill: Lessee shall be responsible for mowing areas of Lease Area on the landfill cap areas; related solar facility areas, at the same quality, frequency and timing of the UCRRA (which is currently once per summer in the month of August) to avoid avian disturbance but that may change from time to time.

Section 4.

The Parties acknowledge and agree that the actual System design, layout and Premises location will be updated as mutually agreed by the Parties prior to the Lease Term and each applicable Exhibit will be updated accordingly without requiring any amendment of this Agreement or further consent.

Section 5.

In addition to maintaining the System, Lessee will maintain a pollinator-friendly habitat. Lessee will plant native seed to create an ecologically-friendly pollinator habitat that is specifically designed for low maintenance upkeep after year 5 of the Term. The use of low-growing native seed mixes will provide a habitat for native wildlife, while lowering the frequency and cost of yearly maintenance after vegetation has been established.

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AMENDED AND RESTATED EXHIBIT E

Lease Term Rent Assumptions & Adjustments

The Parties hereby acknowledge and agree that the Initial Lease Term Rent shall be an amount to be calculated as follows: base rent of \$19,000 per MW ("Base Rent").

No later than 10 days following the achievement of the commercial operation of the Project, Lessee will document any change in the Adjusted System Size provided into a new Exhibit C and any consequential change in the Base Rent hereto into a new Table 1 to this Exhibit.

Provision 1. Total Acres

The Leased Area will comprise approximately four (4) acres of easement (for the duration of the Term) on the landfill cap area, up to three (3) acres near the landfill cap area as temporary easement for the purpose of the solar installation and that Lessee utilization of less than that number of total acres will not impact the baseline amount of Lease Term Rent. The final location of Leased Area will be mutually agreed upon by the Parties prior to submission of permits to the Authority Having Jurisdiction.

Provision 2. Taxes

\$0 sales tax liability in respect of the System equipment; and \$0 annual property tax liability for Lessee.

Ulster County is listed as a taxing jurisdiction which provides exemptions for commercial solar energy systems equipment in Publication 718-CS, *Local Sales and Use Tax Rates on Sales and Installations of Commercial Solar Energy Systems Equipment*, published in February 2018. In the event that Lessee becomes liable or responsible for any sales tax in respect of the System equipment and/or property tax, the Town shall indemnify and hold harmless Lessee for all such liability, and in its sole discretion, Lessee may offset its Lease Term Rent payments in the amount of any such liability.

Provision 3. Prevailing Wage

Construction of the photovoltaic system will not require the payment of prevailing wage.

In the event that the project becomes subject to the prevailing wage rate as the result of changes or modifications in the financing for or manner of construction or implementation of the intended improvement occasioned as the result of actions or determinations undertaken on the part of both the town and the lessee, the Lease Term Rent will be reduced proportionally to achieve substantially the same relative economic benefit to Lessee.

Provision 4. Interconnection

System interconnection cost = \$0.10 per Watt.

In the event there is a material increase in the cost to interconnect the System, the Parties agree that the Lease Term Rent shall be offset as detailed below to account for such increase in interconnection costs.

The Rent shall be adjusted as such:

- For each increase in interconnection cost of \$0.01 per Watt DC, the Base Rent shall decrease by \$500 per Megawatt.
- For each decrease in interconnection cost of \$0.01 per Watt DC, the Base Rent shall increase by \$500 per Megawatt.

Here are examples of the Base Rent per MW adjusted for incremental changes in interconnection cost:

Interconnection cost (\$/W DC)	Base Rent per MW (\$)	Base Rent (\$)
0.10	19,000.00	6,650.00
0.08	20,000.00	7,000.00
0.15	16,500.00	5,775.00
0.20	14,000.00	4,900.00
0.475	0.00	0.00

Provision 5. Annual Lease Term Rent Escalator

The Parties agree that the Lease Term Rent shall increase at each anniversary of the Lease Commencement Date by 2% as described in Table 1 of this Exhibit E. Such increase shall be applicable to the Lease Term Rent payment directed in Article 4, Part 3 b). Table 1 of this Exhibit E presents the agreed Lease Term Rent each year following the Lease Commencement Date.

Table 1 of Exhibit E follows on the next page.

Table 1. Lease Term Base Rent each year following the Lease Commencement Date

<u>Anniversary of the Lease Commencement Date</u>	<u>Adjusted Project rent (\$ per MW year)</u>	<u>Adjusted Project rent (\$ per year)</u>	<u>Cumulative Lease Term Rent</u>
Lease Commencement Date	19,000	6,650	6,650
1st Anniversary	19,380	6,783	13,433
2nd Anniversary	19,768	6,919	20,352
3rd Anniversary	20,163	7,057	27,409
4th Anniversary	20,566	7,198	34,607
5th Anniversary	20,978	7,342	41,949
6th Anniversary	21,397	7,489	49,438
7th Anniversary	21,825	7,639	57,077
8th Anniversary	22,262	7,792	64,868
9th Anniversary	22,707	7,947	72,816
10th Anniversary	23,161	8,106	80,922
11th Anniversary	23,624	8,268	89,190
12th Anniversary	24,097	8,434	97,624
13th Anniversary	24,579	8,602	106,227
14th Anniversary	25,070	8,775	115,001
15th Anniversary	25,571	8,950	123,951
16th Anniversary	26,083	9,129	133,080
17th Anniversary	26,605	9,312	142,392
18th Anniversary	27,137	9,498	151,890
19th Anniversary	27,679	9,688	161,578
20th Anniversary	28,233	9,882	171,459
21st Anniversary	28,798	10,079	181,538
22nd Anniversary	29,374	10,281	191,819
23rd Anniversary	29,961	10,486	202,305
24th Anniversary	30,560	10,696	213,001
25th Anniversary	31,172	10,910	223,912
26th Anniversary	31,795	11,128	235,040
27th Anniversary	32,431	11,351	246,391
28th Anniversary	33,079	11,578	257,968
29th Anniversary	33,741	11,809	269,778
30th Anniversary	34,416	12,046	281,823
31st Anniversary	35,104	12,286	294,110
32nd Anniversary	35,806	12,532	306,642
33rd Anniversary	36,522	12,783	319,425
34th Anniversary	37,253	13,038	332,463
35th Anniversary	37,998	13,299	345,763
36th Anniversary	38,758	13,565	359,328
37th Anniversary	39,533	13,837	373,164
38th Anniversary	40,324	14,113	387,278
39th Anniversary	41,130	14,396	401,673
40th Anniversary	41,953	14,683	416,357
41st Anniversary	42,792	14,977	431,334
42nd Anniversary	43,648	15,277	446,610
43rd Anniversary	44,521	15,582	462,193
44th Anniversary	45,411	15,894	478,087
45th Anniversary	46,319	16,212	494,298

End.