

**PROPERTY TAX PAYMENT AGREEMENT BETWEEN THE
TOWN OF NORTH HAVEN AND CF NORTH HAVEN LLC**

This **PROPERTY TAX PAYMENT AGREEMENT** (“Agreement”) is made and entered into as of July [___], 2020 by and between the **TOWN OF NORTH HAVEN**, a municipal corporation in the State of Connecticut (the “Town”), and **CF NORTH HAVEN LLC**, a limited liability company organized and existing under the laws of the State of Connecticut (“Greenskies”) and having an office and place of business at 127 Washington Ave, North Haven, CT 06473.

WITNESSETH:

WHEREAS, Greenskies has proposed developing an approximately five (5) megawatt electric generating facility (the “Facility”) located on two parcels of leased land located at 700 Middletown Avenue and 232 Rimmon Road in the Town, comprising approximately 41.63 acres (the “Land”), and such Facility is further shown on the site plan attached hereto as **Exhibit A**; and

WHEREAS, said Facility will constitute an “electric generating facility” as said term is referenced in CGS Sec. 32-71a (d); and

WHEREAS, due to the changing nature of the electric industry, including, without limitation, deregulation, electric generation has become highly competitive and valuation of

generating facilities will be subject to a number of variables, many of which cannot be predicted at this time; and

WHEREAS, the development of the Property will increase the property tax revenues of the Town; and

WHEREAS, the development of the Property will preserve and expand the tax base of the Town; and

WHEREAS, both the Town and Greenskies desire certainty and stability in the amount of taxes that will be payable by Greenskies and collected by the Town, in order (i) for Greenskies to stabilize expenses; and (ii) for the Town to stabilize tax revenues and facilitate long range planning. To attain such certainty and stability and to avoid disputes as to the valuation of the Property, it is necessary for the Town and Greenskies to enter into this Agreement; and

WHEREAS, CGS Sec. 32-71a(a) authorizes the Town and Greenskies to enter into this Agreement; and

WHEREAS, the Town and Greenskies have used their best efforts to determine the projected tax liability of the Property during the Term, as defined herein, and have determined that the Taxes set forth in this Agreement represent an approximation of the projected tax liability of the Property based on a reasonable estimation of its fair market value, and to allocate payments of

such tax liability during the Term in a manner consistent with the requirements of law, including, but not limited to CGS Sec. 32-71a(a) and Chapters 203 and 204 of said CGS; and

WHEREAS, the Town has approved entering into this Agreement by vote of its legislative body on July [___], 2020.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, obligations and undertakings provided for herein, the Town and Greenskies agree as follows:

Section 1. Definitions

Capitalized terms used in this Agreement and not defined elsewhere shall have the meanings set forth below:

“CGS” means the Connecticut General Statutes, revisions of 1958, as amended.

“Decommissioning” shall mean the removal from service of the Facility, or any portion thereof, as effected by Greenskies and communicated to the Town by written notice.

“Effective Date” means the first Semiannual Tax Payment Date immediately following the later of (i) the date that the Facility achieves commercial operations, as indicated in a written notice provided by Greenskies to the Town, and (ii) issuance of final building permit approval for the Facility by the Building Office of the Town.

“Facility” includes all personal property used directly or indirectly in the production, storage, or delivery of electricity and reasonably related thereto located on the Land.

“Property” means the Land on which the Facility is located, and all buildings, structures and site improvements located thereon, structures and all equipment, machinery, fixtures, and other personal property located thereon and therein, arising from, related to, or used directly or indirectly in the production, storage or delivery of electricity or the operation, maintenance or improvement of the Facility.

“Semiannual Tax Payment Dates” means July 1 and January 1.

“State” means the State of Connecticut.

“Taxes” or “Tax Payments” means the amount(s) payable by Greenskies pursuant to this Agreement.

“Tax Year” means a period commencing on July 1 and ending on the following June 30.

“Term” means the period commencing with the Effective Date and ending on the day immediately preceding the twenty-fifth anniversary thereof, unless previously extended to a later date by mutual agreement of the parties hereto in accordance with Section 12 hereof, in which case this Agreement will terminate on such later date.

Section 2. Commencement of Tax Payments Due Under Agreement.

Commencing on the Effective Date and on each Semiannual Tax Payment Date thereafter during the Term, Greenskies shall pay to the Town the Taxes in the amounts set forth in **Schedule A** with respect to the applicable Semiannual Tax Payment Date. Prior to the Effective Date, Greenskies shall pay property taxes as they are assessed and come due for the Property provided that such property taxes shall not exceed the amount of \$53,070 per Tax Year.

Section 3. Abatement of Personal and Real Property Taxes.

The parties hereto agree that the Taxes payable under Section 2 hereunder represent all personal and real property taxes with respect to the Property imposed by the Town pursuant to CGS Chapter 203 (including property set in the assessment list of the Town pursuant to CGS Secs. 12-64 and 12-71 or any successor provisions) or any successor provisions, represent the sole payments to be made by Greenskies with respect to such personal and real property taxes during the Term and shall be accepted by the Town in full satisfaction of such taxes. Consequently, all personal and real property taxes that would be due and payable by Greenskies but for this Agreement shall be abated in respect of and during the Term. The foregoing provisions are subject to any adjustments or payments due as set forth in Paragraph 6, below.

Section 4. Adjustments for Material Change in Taxing Structure.

The parties hereto agree that this Agreement is predicated on the assumption that personal and real property taxes are assessed by and paid to the Town in the manner that is consistent with current law, and that the State's system of property taxes is not replaced by a substitute system of taxes (whether property or otherwise) that materially increases or diminishes the receipts a municipality derives from property taxes or that a taxpayer pays in respect of property taxes. In recognition of the foregoing, if the current system of property taxation is materially modified by law, the parties agree to negotiate in good faith to modify this Agreement in a manner that preserves the respective economic positions of both the Town and Greenskies. For purposes of this Section 4, any increases or decreases in real or personal property tax valuation or increases or decreases in the rate of any tax shall not, in and of itself, constitute a material modification of the current system of property taxation.

Section 5. Taxes Following Term of this Agreement.

Commencing on the expiration of the Term, the Property shall be assessed in the manner required by applicable law and taxes shall be calculated and be due and payable as provided by applicable law. If such expiration or termination occurs on a date other than the first day of a Tax Year, the taxes for that portion of that Tax Year remaining after expiration or termination shall be calculated as set forth in this Section and shall be prorated for that portion of the Tax Year commencing on the day following such expiration or termination and ending on the last day of that Tax Year. All payments of Taxes made prior to such expiration or termination shall be deemed final and the Town waives any right to any taxes that would have been due prior to such expiration

or termination but for this Agreement and Greenskies waives any right to a refund of any taxes that would not have been due prior to such expiration or termination but for this Agreement.

Section 6. Changes to Property and Adjustments to Tax Payments.

(a) If the Property is totally or partially destroyed, demolished or Decommissioned during the Term, Greenskies shall promptly notify the Town, in writing, of the date of any decrease in rated capacity due to the destruction, demolition and/or Decommissioning. A proportionate decrease in the Taxes set forth in Schedule A for the next succeeding Semiannual Tax Payment Date and all subsequent Semiannual Tax Payment Dates shall be made based on the decreased amount per year for each megawatt (“MW”), or a portion thereof, of the rated summer capacity below 5 MWs as a result of such destruction, demolition and/or Decommissioning.

(b) If the Facility is expanded during the Term, Greenskies shall promptly notify the Town of the date of any increase in rated capacity due to the expansion. A proportionate increase in the Taxes as set forth in Schedule A for the next succeeding Semiannual Tax Payment Date and all subsequent Semiannual Tax Payment Dates shall be made based on the increased amount per year for each MW, or a portion thereof, of the rated summer capacity above 5 MWs as a result of such expansion. Additions, changes and repairs to the Land, the Facility and/or the Property that do not increase their rated capacity shall not increase any of the Tax Payments set forth in Schedule A during the Term of this Agreement.

Section 7. Billing and Payment.

All installment payments of Taxes payable by Greenskies to the Town under this Agreement as set forth in Schedule A hereof shall be due and payable in full on or before the first day of the month next succeeding the Semiannual Tax Payment Date. The parties acknowledge and agree that the payments set forth in Schedule A represent combined real estate and personal property taxes that will be due.

Section 8. Late Payments.

If Greenskies fails to make a scheduled installment Tax Payment hereunder on or before the first day of the month next succeeding the Semiannual Tax Payment Date, the whole or such part of such installment as is unpaid shall thereupon be delinquent and shall be subject to interest from the due date of such delinquent installment at the rate of eighteen percent (18%) per annum, as set forth in CGS Section 12-146, or as same shall be amended from time to time.

Section 9. No Additional Tax Benefits.

Except for adjustments that may be required pursuant to Section 6 of this Agreement, Greenskies agrees that it will not pursue any additional exemptions or tax abatements or any subsequent adjustment to its Taxes that are the subject of this Agreement unless permitted herein. Nothing in this Section shall prohibit Greenskies from seeking additional tax relief and rebates

from the state, federal or authorities other than the Town, provided that no such relief shall reduce the amounts payable by Greenskies to the Town under this Agreement. The Town will reasonably cooperate with Greenskies in applying for state, federal or other programs providing tax assistance to electricity generators in the State of Connecticut.

Section 10. No Audits, Inspection of Records or Declarations.

The Town shall have no right to audit or otherwise inspect or make copies of any of the books or records of Greenskies relating to the Property and/or Greenskies's operations on and of the Property during the term of this Agreement. Greenskies shall have no obligations to file any income and expense statements, personal property declarations or similar forms with respect to the Property and the Facility during the Term.

Section 11. Default and Remedies for Nonpayment of Taxes.

The parties hereto acknowledge and agree that payments due by Greenskies to the Town hereunder are Tax Payments imposed pursuant to CGS Chapter 204 (except to the extent such taxes are modified as to amount and timing pursuant to the terms hereof) and that all rights and remedies available to the Town under applicable law (including, without limitation, CGS Chapters 204 and 205) with respect to nonpayment of taxes shall continue to be applicable as they apply to the payment and collection of amounts due as Taxes as set forth in this Agreement. Notwithstanding the foregoing, in the event of default in the payment of Taxes to the Town that remains uncured for a period of sixty (60) days from and after a due date, the Town, at its option,

may declare Greenskies to be in default under this Agreement, upon written notice to Greenskies (or any successor in interest to the Property) and following such notice, terminate this Agreement and reassess the Property and thereafter levy taxes as the same would otherwise be due absent this Agreement.

Section 12. Renewals and Extensions.

Prior to the expiration of the Term hereof, either party may request an extension of the Term hereof on such terms as may be mutually agreeable, including the amount of Taxes due during each year of the extension term, if permitted under applicable law. If the parties agree to extend the Term and such extension is permitted by law, the parties shall execute a written amendment hereto setting forth the duration of the Taxes payable during the extension of the Term.

Section 13. Notices.

All notices required or permitted under the terms of this Agreement shall be in writing and can be delivered by hand or by facsimile or registered or certified mail. Notices sent by registered or certified mail, by hand or by facsimile shall be deemed effective on the third day after deposit in the United States Mail, postage prepaid, or on the second day after hand delivery or facsimile transmission, except as otherwise demonstrated by a signed receipt or facsimile confirmation.

Notices shall be sent to the following addresses:

If to the Town:

First Selectman
Town of North Haven
Memorial Town Hall
18 Church Street
North Haven, CT 06473

If to Greenskies:

CF North Haven LLC
c/o Greenskies Clean Energy LLC
127 Washington Ave
West Building, Garden Level
North Haven, CT 06473

with a copy to:

Lee D. Hoffman, Esq.
Gregory F. Servodidio, Esq.
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702

Either party may designate a different notice address and/or additional recipients of notices by giving written notice as set forth above.

Section 14. Amendments; Waivers.

No modification or amendment of this Agreement shall be valid or effective unless expressly set forth in an agreement in writing signed on behalf of each party hereto. If and to the extent the provisions of any modification or amendment shall be unenforceable or void under law, such unenforceable or void provisions shall be disregarded and this Agreement shall otherwise remain in full force and effect. No waiver, consent or discharge (other than discharge by reason

of performance) shall be effected, except by an instrument in writing executed by or on behalf of the party against whom enforcement of such waiver, consent or discharge is sought.

Section 15. Assignment.

This Agreement shall be assignable by Greenskies without the Town's consent (i) in connection with any financing for Greenskies, the Property or the Facility and/or (ii) in connection with the sale or other transfer of either the legal or beneficial ownership of Greenskies, the Property or the Facility to any entity in which Greenskies or any successors or assigns has, directly or indirectly, a majority ownership interest and/or (iii) in connection with the sale or other transfer of ownership of Greenskies provided that Greenskies retains ownership of the Facility and remains obligated under the provisions of this Agreement. Any other assignment of this Agreement shall be made only with the consent of the Town, which shall not be unreasonably withheld or delayed.

In the event Greenskies, or a subsequent owner of the Facility, assigns this Agreement to the purchaser of its interest in the Property, the party making the assignment shall be relieved from liability for the payment and performance of its obligations hereunder which arise after such assignment so long as the assigns shall agree in a written instrument which is in form and substance reasonably acceptable to the Town to assume the obligations to make the Tax Payments and perform the other obligations of Greenskies under this Agreement which arise after such assignment. In connection with any assignment of this Agreement or in order to facilitate the obtaining of financing or refinancing for Greenskies, the Property or the Facility, the Town shall

execute such consents, estoppel certificates, agreements and similar documents as Greenskies shall reasonably request.

Section 16. Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and assigns. Greenskies's obligations hereunder are solely its obligations and no affiliate of Greenskies and no member, officer, director, manager, agent or other representative of Greenskies shall have any liability for the performance of its obligations hereunder.

Section 17. Severability.

The parties hereto have entered into this Agreement in good faith on the basis of applicable Connecticut law. Each party hereto, including its successors and assigns, agrees not to challenge the validity of this Agreement or its enforceability against such party. If the validity or enforceability of this Agreement or any portion hereof is challenged by any third party, both parties hereto agree to defend the validity and enforceability of this Agreement, with each party bearing the costs of its own attorney and both parties bearing equally the costs of such litigation. If a non-material term of this Agreement shall be deemed to be illegal or unenforceable pursuant to a final, non-appealable judgment by a court of competent jurisdiction over the parties, the remainder of this Agreement shall remain in full force and effect as if such portion had not been included in this Agreement from the Effective Date. If a material term of this Agreement is declared illegal or

unenforceable by a final non-appealable judgment of a court of competent jurisdiction, the parties agree to an adjustment of the Taxes pursuant to Schedule A hereunder such that neither the Town nor Greenskies is disadvantaged by entering into this Agreement, taking into account the time value of money as reasonably agreeable to both parties.

Section 18. Captions.

The section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.

Section 19. Governing Law.

This Agreement shall be governed by and construed under the internal laws of the State of Connecticut. The parties further agree to be contractually bound to submit themselves to the personal jurisdiction of the courts of Connecticut. The venue for any court proceeding shall be in the Judicial District for Middletown, Connecticut, and each party waives any venue, convenient forum, removal, jurisdiction, or other rights to the contrary.

Section 20. Waiver of Jury Trial.

GREENSKIES HEREBY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (1) ARISING UNDER THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR

AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR (2) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH GREENSKIES PURSUANT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND GREENSKIES HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THE TOWN MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF GREENSKIES 'S CONSENT TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

WITNESS:

Town of North Haven

By: _____
Michael J. Freda, First Selectman

WITNESS:

CF North Haven LLC

By: _____
Stanley Chin, Authorized Signatory

STATE OF CONNECTICUT)

) ss:

At: North Haven

COUNTY OF NEW HAVEN)

Personally appeared Michael J. Freda, First Selectman of the Town of North Haven, Connecticut, signer of the foregoing instrument, and acknowledged the same to be the free act and deed of said Town, and his free act and deed as such officer, before me.

Notary Public

My Commission Expires:

Commissioner of the Superior Court

STATE OF CONNECTICUT)

) ss:

At: North Haven

COUNTY OF NEW HAVEN)

Personally appeared _____ of CF North Haven LLC, signer of the foregoing instrument, and acknowledged the same to be the free act and deed of said Company, and his free act and deed as such officer, before me.

Notary Public

My Commission Expires:

Commissioner of the Superior Court

SCHEDULE A

<u>Payment Number</u>	<u>Payment Amount</u>
1	\$26,535
2	\$26,535
3	\$26,535
4	\$26,535
5	\$26,535
6	\$26,535
7	\$26,535
8	\$26,535
9	\$26,535
10	\$26,535
11	\$26,535
12	\$26,535
13	\$26,535
14	\$26,535
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45	\$26,535
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47	\$26,535
48	\$26,535
49	\$26,535
50	\$26,535

Exhibit A

