

Lease Addendum

This Lease Addendum ("Lease Addendum") is entered into this ___ day of _____, 2018 by and among Vermont Housing and Conservation Board ("VHCB"), Vermont Agency of Agriculture, Food and Markets ("VAAF"), the Vermont Land Trust, Inc. ("VLT"), and the Town of East Montpelier ("Town") (VHCB, VAAF, VLT and Town are collectively referred to as the "Co-Holders"), Fairmont Farm, Inc. ("Lessors"), and Solarsense VT XVII LLC ("Lessee"). The rights and obligations of this Lease Addendum shall bind and inure to the benefit of the parties and their respective heirs, successors and assigns.

By a Grant of Development Rights and Conservation Restrictions given by Austin C. Cleaves to the Co-Holders, dated June 12, 1991 and recorded in Book 45, Page 311 of the East Montpelier Land Records (the "Grant", capitalized terms used herein and not defined herein shall have the meanings given in the Grant), the Co-Holders acquired development rights, conservation restrictions and a right of first refusal on land and premises consisting of 285 acres, more or less, located in East Montpelier, Vermont (the "Protected Property") and now owned by Lessor.

As required by the Grant, Lessor and Lessee have sought the Co-Holders' permission to lease and use portions of the Protected Property pursuant to a Solar Facilities Lease between Lessor and Lessee, dated September 29, 2017 (the "Lease") in order to install, maintain, repair, replace and operate photovoltaic electric generation and distribution facilities and all improvements and appurtenances necessary thereto (the "Solar Facilities"). The Co-Holders have concluded that the construction, installation, maintenance, repair, replacement and operation of the Solar Facilities as described and provided in the Lease may be permitted and approved as consistent with the Purposes under the Grant subject to certain criteria and guidelines.

This Lease Addendum hereby specifies those criteria and guidelines by incorporating the following provisions into the Lease. Where, in the reasonable opinion of the Co-Holders, there is any conflict between the Lease and this Lease Addendum, all the parties hereto agree that this Lease Addendum prevails and its provisions shall control.

1. Inconsistent Use. The Lease is and shall be subject to the Grant and to this Lease Addendum. The Solar Facilities and Lessee's construction, maintenance, operation and use of them shall remain at all times consistent with the Lease, the Grant and this Lease Addendum. If the Co-Holders determine during the Lease term that such uses are not consistent, then the Co-Holders shall notify Lessor and Lessee in writing of the nature of such inconsistency, and Lessor or Lessee shall promptly correct such inconsistency. If such inconsistency is significant and the Lessor or Lessee either cannot correct it or does not correct it within a reasonable time as set forth in the notice or subsequently agreed to by Co-holders, then the Co-Holders may elect to require Lessor and Lessee to terminate the Lease, immediately remove the Solar Facilities and remediate the Protected Property in accordance with the decommissioning provisions of the Lease and this Lease Addendum. For purposes of this paragraph "significant" shall mean that the Co-Holders have determined, in their sole discretion, that the construction, maintenance, operation, or use of the Solar Facilities on the Protected Property materially deviates from the Lease or this Lease Addendum, and/or interferes with the farming operations of Lessors or their tenants, and/or that the Solar Facilities are causing irreversible damage to farming resources, improvements or structures on the Protected Property, and/or that the Solar Facilities are otherwise having a material adverse impact on the Purposes of the Grant.

2. Use of Electricity. The electric power generated by the Solar Facilities shall be utilized only as provided under the Solar Energy Group Metering Agreement by and between Lessor and Lessee, dated September 29, 2017.

3. Additional Facilities and Rights. The Co-Holders have not approved the construction, installation or use of any facilities, structures, improvements or equipment outside of that portion of the Protected Property depicted on the plan appended to both the Lease and this Addendum as Exhibit A (the "Lease

Area”). Nor have the Co-Holders approved any facilities, structures, improvements or equipment other than those depicted by type, number and dimension on said Exhibit A. In the event of a request from Lessors to locate and/or use additional or different (in type or dimension) facilities, structures, improvements and equipment on the Protected Property whether within the Lease Area or outside it, the Co-Holders will apply the Purposes of the Grant and the specifically applicable provisions of the Grant and they may elect to apply the guidelines provided in Section 4, below, to review that request. No general statement in the Lease that Lessee may install future facilities, whether inside or outside of the Lease Area, shall be construed to preempt Co-Holders’ right to review and approve such installation prior to construction. If, in Co-Holders’ sole discretion, based on the purposes of the Section 4 guidelines, such additional installation does not comply with this Lease Addendum or with the Grant or its Purposes, then Co-Holders may deny such request.

4. Guidelines. The following criteria must be met to Co-Holders’ satisfaction both at the time Lessee initially proposes to install the Solar Facilities on the Protected Property and at all times thereafter during the term of the Lease as it may be renewed or extended after the initial term, including any proposed changes or additional facilities or rights. The Solar Facilities (including all structures and equipment installed by Lessee or at Lessee’s direction under the Lease) shall:

- A. Be constructed in a manner that does not require permanent concrete or paved siting areas. Removable posts are preferred.
- B. To the extent reasonably possible, be compatible with agricultural activities (such as small animal grazing, bee yards or part-shade tolerant crops) continuing on the Lease Area.
- C. Have no undue adverse public scenic impact as determined by the Co-Holders in their sole discretion.
- D. Not substantially interfere with farming operations on the Protected Property as reasonably determined by Lessor or its tenants.

Upon request of Lessee with submission of final plans for the Solar Facilities, including Utility Easements referenced in Section 6, the Co-Holders shall, within a reasonable period of time from the submission of the plans, or any necessary amended submission(s), confirm to Lessee whether the Solar Facilities as planned, including Utility Easements, are consistent with the Grant, the Section 4 guidelines, and this Lease Addendum. So long as Lessee makes no material change to the construction, operation and maintenance of the Solar Facilities from the approved plans, Co-Holders agree they shall not exercise their rights under Section 3 and Lessee’s use and Solar Facilities shall not be disturbed, and Lessee shall be entitled to quiet enjoyment of its Lease.

5. Access. Lessee’s right of access on and over the Protected Property to the Lease Area is limited in scope and in location to that described in the Lease and depicted on the plan appended to the Lease as Exhibit A or final, approved plans. No other access is permitted without first obtaining the Co-Holders’ written approval which may be given, withheld or conditioned in their sole discretion in accordance with Section 2 of the Grant.

6. Utility Easements. Lessee and Lessor shall seek Co-holder approval for and provide to the Co-Holders copies of any proposed utility easements, licenses and rights of way on and over the Protected Property that are necessary for the construction, operation, maintenance or functioning of the Solar Facilities and that are in addition to the rights granted by Lessor to Lessee under the Lease, in advance of execution and delivery of same, for the Co-Holders’ written approval which may be given, withheld or conditioned in their sole discretion in accordance with Section 2 of the Grant.

7. Permits and Approvals. Lessee shall procure any and all required local, state and federal permits and approvals necessary to construct and operate the Solar Facilities. Noncompliance with any such permit or approval shall be deemed a violation or act of noncompliance with this Lease Addendum and the Grants.

8. Decommissioning. In addition to the requirements in the Lease concerning the removal of the Solar Facilities and rehabilitation of the Lease Area and the Protected Property, the Lessor and Lessee shall comply with the requirements of the Vermont Agency of Agriculture, Food and Markets "Reclamation of Vermont Agricultural Soils" if areas of agricultural soil are impacted.

9. Indemnification/Insurance. Lessee and Lessor shall indemnify, defend and hold harmless each of the Co-Holders from and against any and all claims, losses, liabilities, obligations, damages, costs, expenses, including reasonable attorney fees caused by or arising out of its acts or omissions associated with the Solar Facilities constructed, maintained, or operated by Lessee or at its direction and from any other use or occupancy of the Protected Property by Lessee and those at its direction, except to the extent that liability from same is caused by the intentional, reckless, or negligent acts of the Co-Holders. Lessee and Lessor shall add the Co-Holders as additional insureds under the liability insurance policies each shall procure with respect to the construction, maintenance and operation of the Solar Facilities on the Protected Property. Proof of such liability coverage shall be delivered to the Co-Holders upon request. The provisions of this paragraph will survive the term of the Lease.

10. Enforcement. A violation of, or non-compliance with this Lease Addendum by Lessor or Lessee may be enforced by the Co-Holders in law or equity, including mandatory or prohibitory injunctive relief, and, in the event of such enforcement, the prevailing party shall be entitled to recover its costs and expenses, including a reasonable attorneys' fee.

11. Governing Law. The Lease and this Lease Addendum and any issues or controversies arising between the parties hereto shall be governed by the law of the State of Vermont.

12. Notification. All notices required between the Lessor and Lessee under the Lease shall be simultaneously given by the notifying party to the Co-Holders. Such notices and any notice required to be given to the Co-Holders shall be delivered to VLT at the following address: Vermont Land Trust, Inc., 8 Bailey Avenue, Montpelier, Vermont 05602. Notices required by the Co-Holders shall be delivered by VLT on behalf of the Co-Holders to the Lessor and Lessee at the addresses set forth in the Lease.

13. Co-Holders' Approval. Subject to continuing compliance with all of the foregoing, the Co-Holders hereby grant their approval to the Lease, to the Lessor's lease of the Leased Area to Lessee, and to the Lessee's installation, operation, maintenance and construction of Solar Facilities described in the Lease, including Exhibit A, upon the Leased Area.

14. VHCB and VAAFAM Delegation of Authority. VLT represents that it has full power and authority to execute this Lease Addendum on behalf of VHCB and VAAFAM pursuant to the authority delegated to it under a Delegation of Stewardship Rights and Responsibilities by and between VLT, VHCB and VAAFAM, dated November 4, 1998.

We set our hands and seals.

Solarsense VT, LLC
By: 
Christopher Fraga, its Managing Member
and Duly Authorized Agent

Date: 6-25-18

Fairmont Farm, Inc.

By: _____
Its Duly Authorized Agent

Date: _____

**Vermont Land Trust, Inc. on behalf of
Itself and VHCB and VAAF**

By: 
Its Duly Authorized Agent

Date: 7/2/18

Town of East Montpelier

By: _____
Its Duly Authorized Agent

Date: _____

Exhibit A (to be updated with Final Version)

