



DATED _____ SEPTEMBER 2019

(1) THE CROWDFUNDERS

as Subordinated Creditors

(2) ZONNEAKKER DE WATERING B.V.

as Debtor

and

(3) HAMBURG COMMERCIAL BANK AG

as Senior Creditor

SUBORDINATION AGREEMENT



CONTENTS

1.	DEFINITIONS AND INTERPRETATION	4
2.	SUBORDINATION.....	5
3.	DEBTOR'S UNDERTAKINGS	5
4.	SUBORDINATED CREDITORS' UNDERTAKINGS	6
5.	PERMITTED PAYMENTS.....	7
6.	RECOVERY BY SUBORDINATED CREDITORS	7
7.	RESTRUCTURING AND AMENDMENTS TO FINANCE DOCUMENTS	8
8.	NOTIFICATION OF EVENT OF DEFAULT AND ENFORCEMENT.....	8
9.	SUBORDINATION IN INSOLVENCY	8
10.	PROTECTION OF SUBORDINATION.....	9
11.	SENIOR CREDITOR UNDERTAKINGS.....	10
12.	REPRESENTATIONS	11
13.	OVERRIDE AND AMENDMENTS TO THE SUBORDINATED LOAN DOCUMENTS..	12
14.	WAIVERS	12
15.	TRANSFER OF LOANS.....	12
16.	ASSIGNMENT AND TRANSFER.....	13
17.	DISSOLUTION, SUSPENSION AND ERROR; CONSENT.....	13
18.	EVIDENCE	13
19.	TERMINATION.....	13
20.	NOTICES.....	13
21.	AMENDMENTS AND WAIVERS	14
22.	SEVERABILITY	14
23.	GOVERNING LAW AND JURISDICTION	14
	ANNEX I	16



ANNEX II..... 17



THIS SUBORDINATION AGREEMENT is made on _____ September 2019

BETWEEN

- (1) **THE CROWDFUNDERS** (as defined below), represented by Stichting Zonedelers, a foundation (*stichting*), with corporate seat (*statutaire zetel*) in Amsterdam, the Netherlands and its office address at Distelweg 451, 1031 HD Amsterdam, the Netherlands, registered with the Chamber of Commerce (*Kamer van Koophandel*) under number 62979795 (each Crowdfunder a "**Subordinated Creditor**" and together the "**Subordinated Creditors**");
- (2) **ZONNEAKKER DE WATERING B.V.**, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*), with corporate seat (*statutaire zetel*) in Groningen, the Netherlands and its office address at Leonard Springerlaan 19, 9727 KB Groningen, the Netherlands, registered with the Chamber of Commerce (*Kamer van Koophandel*) under number 65695976 (the "**Debtor**"); and
- (3) **HAMBURG COMMERCIAL BANK AG**, a public limited company (*Aktiengesellschaft*), organised under the laws of Germany having its registered offices at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany, and registered with the commercial register (*Handelsregister*) at the local court (*Amtsgericht*) of Hamburg under registration number HRB 87366 (the "**Senior Creditor**").

BACKGROUND

- (A) The Debtor and the Senior Creditor have entered into the Facilities Agreement for purposes of financing the construction and the operation by the Debtor of a ground-mounted photovoltaic system known as Zonneakker de Watering located near het Dwarspad in Coevorden, municipality Coevorden, the Netherlands, with a total nominal capacity of circa 11.897 MWp (the "**Project**").
- (B) To achieve involvement in, benefit financially from and to strengthen the financial resources of the Debtor for purpose of the Project, the Subordinated Creditors have granted or shall grant Loans to the Debtor by means of a crowdfunding structure.
- (C) Each Subordinated Creditor has agreed with the Debtor and the Senior Creditor that, subject to the terms and conditions of this Subordination Agreement, all present and future claims (actual or contingent) which any Subordinated Creditor now has or at any time may have against the Debtor under or pursuant to the Loans (the "**Subordinated Claims**") shall be subordinated in right of payment to the Senior Claims.
- (D) Parties wish to determine the terms and conditions applicable to the subordination referred to under (C) above in this Subordination Agreement.



1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Capitalised terms not otherwise defined in this Subordination Agreement shall have the meanings ascribed to such terms in the Facilities Agreement.

In this Subordination Agreement:

"Acceleration Event" means (i) the Senior Creditor exercising any of its rights under Clause 13 (*Events of Default*) of the Facilities Agreement or (ii) the enforcement by the Senior Creditor of any security interests;

"Crowdfunder" means any person or legal entity to which the Debtor has issued bonds in connection with the Loans as specified in Annex I (*The Crowdfunders*);

"Facilities Agreement" means the non-recourse loan facilities agreement between the Debtor as borrower and the Senior Creditor as bank for the purpose of financing the construction and the operation of a ground-mounted photovoltaic system known as Zonneakker de Watering located near het Dwarspad in Coevorden, municipality Coevorden, the Netherlands dated 28 August 2019 (and as amended from time to time);

"Information Memorandum" means the information memorandum relating to the offer and issue by the Debtor of a maximum of 6,000 unsecured and subordinated bonds in the Netherlands;

"Insolvency" means:

- (a) the winding-up, legal proceedings (*faillissement*) or liquidation (*vereffening*) of any person;
- (b) any judicial composition in respect of any person; or
- (c) any analogous procedure in any jurisdiction of any person;

"Loan(s)" means all loans extended by the Subordinated Creditors to the Debtor, including but not limited to a subscription to bonds with a nominal value of EUR 25,00 as specified in Annex I (*The Crowdfunders*);

"Party(ies)" means the Senior Creditor, the Subordinated Creditors and the Debtor;

"Permitted Amounts" means any amounts in respect of interest, repayments and/or prepayments as described in Clause 5 and Clause 6 of Annex 7 (*Obligatievoorwaarden*) of the Information Memorandum;

"Senior Claim" means all present and future claims and rights (actual or contingent) which the Senior Creditor has or may have against the Debtor under the Finance Documents;

"Finance Documents" means the Facilities Agreement, the security documents and any utilisation request in connection to the Facilities Agreement, the Master Mandate Agreement, the Subordination Agreement (as defined in the Facilities Agreement), any Direct Agreement, this



Subordination Agreement, and any further document entered into pursuant to or in connection with such agreements;

"**Senior Claims Discharge Date**" means the first date on which all Senior Claims have been fully and irrevocably paid or discharged and no further Senior Claims are capable of becoming outstanding;

"**Subordination Agreement**" means this subordination agreement;

"**Subordinated Loan Documents**" means any document and/or agreement (including any terms and conditions) which regulates and/or is applicable to the Loans; and

"**Trustee**" means Stichting Zonedelers acting in its capacity as representative of the Subordinated Creditors.

1.2 Interpretation

In this Subordination Agreement, unless a contrary indication appears:

- (a) any reference to the "**Senior Creditor**", "**Subordinated Creditor**" or the "**Debtor**" or any other person also refers to their respective successors in title, permitted assigns and permitted transferees;
- (b) any reference to (a) the singular shall include a reference to the plural and (b) one gender shall include a reference to any other genders, and vice versa; and
- (c) in Clause 2 (*Subordination*) a "**payment**" includes any payment, repayment, prepayment, distribution, set-off or recovery (whether in cash or in kind).

2. SUBORDINATION

Each Subordinated Creditor hereby agrees to subordinate and hereby subordinates the Subordinated Claims in right of payment to the Senior Claims and the Senior Creditor hereby accepts such subordination. A payment of any amount of the Subordinated Claims other than as permitted by the Facilities Agreement is conditional upon the occurrence of the Senior Claims Discharge Date or after prior written consent of the Senior Creditor.

3. DEBTOR'S UNDERTAKINGS

The Debtor shall not, except with consent of the Senior Creditor and other than as permitted under the Facilities Agreement or this Subordination Agreement:

- (a) make any payment (whether in respect of principal, interest or otherwise) on account of all or any of the Subordinated Claims (whether by way of cash, loan or otherwise);
- (b) redeem, purchase or otherwise acquire, or grant security in respect of, all or any of the Subordinated Claims;
- (c) take, or permit to be taken, any action or step with a view to its winding-up, receivership or administration;



- (d) pay, repay or prepay any interest, default interest, fees or commissions (but without prejudice to the accrual thereof) on, or by reference to, all or any of the Subordinated Claims;
- (e) amend the Subordinated Loan Documents in a manner or to an extent that the interest of the Senior Creditor or the ranking and/or subordination arrangement provided for in this Subordination Agreement are reasonably likely to be adversely affected; and/or
- (f) take or omit to take any action or step whereby the subordination of all or any of the Subordinated Claims might be terminated, impaired or adversely affected.

4. SUBORDINATED CREDITORS' UNDERTAKINGS

Until the Senior Claims Discharge Date and save as permitted under the Facilities Agreement or this Subordination Agreement:

- (a) subject to Clause 9 (*Subordination in Insolvency*), no Subordinated Creditor will demand or receive prepayment, repayment or any distribution in respect of any relevant Subordinated Claim in cash or in kind or apply any money or property in or towards discharge of any relevant Subordinated Claim;
- (b) no Subordinated Creditor will exercise any right of set-off against any of its Subordinated Claims;
- (c) no Subordinated Creditor will permit to subsist or receive any security or guarantee for, or in respect of, its Subordinated Claims;
- (d) no Subordinated Creditor will take or omit to take any action whereby the ranking and/or subordination contemplated by this Subordination Agreement may be impaired;
- (e) subject to Clause 9 (*Subordination in Insolvency*), no Subordinated Creditor will declare any of its Subordinated Claims prematurely due and payable or declare an event of default or demand in respect of or on account of any of its Subordinated Claims, whether in cash or in kind;
- (f) subject to Clause 9 (*Subordination in Insolvency*), no Subordinated Creditor will initiate legal proceedings against the Debtor claiming payment of its Subordinated Claims or bring or prosecute any claim for breach of an representation, warranty or undertaking made or given by the Debtor under or in connection with the Loans;
- (g) no Subordinated Creditor may petition (or vote in favour of any resolution) to convene a meeting, or initiate or support any Insolvency proceedings involving the Debtor, unless it is obliged thereto pursuant to applicable law as (indirect) directors;
- (h) subject to Clause 9 (*Subordination in Insolvency*), no Subordinated Creditor will claim or rank as a creditor in the Insolvency of the Debtor in respect of any of its Subordinated Claims, except as instructed by the Senior Creditor; and/or
- (i) no Subordinated Creditor will amend the Subordinated Loan Documents in a manner or to an extent that the interest of the Senior Creditor or the ranking and/or subordination



arrangement provided for in this Subordination Agreement are reasonably likely to be adversely affected,

in each case except with consent of the Senior Creditor.

5. PERMITTED PAYMENTS

- (a) Notwithstanding the provisions of Clause 4 (*Subordinated Creditors' Undertakings*) and this Clause 5 (*Permitted Payments*), the Debtor may, prior to the Senior Claims Discharge Date, make payments and distributions to the Subordinated Creditors in respect of the Subordinated Claims from time to time when due if the payment relates to Permitted Amounts and is made in accordance with the Facilities Agreement.
- (b) The Debtor shall, prior to making any payments and/or distributions of Permitted Amounts to the Subordinated Creditors at the cost and expense of the Subordinated Creditors, provide all required financial information to the Subordinated Creditors to evidence that such payments and/or distributions are permitted under the Facilities Agreement, which includes but is not limited to payments and/or distributions that are made in accordance with Clause 7(d) of the Facilities Agreement and provided that at the relevant distribution date the Distribution Lock Up Test is met.
- (c) Payments in respect of the Subordinated Claims which relate to Permitted Amounts may however not be made pursuant to paragraph (a) above:
 - (i) if at the time of the payment an Event of Default has occurred and is continuing or would occur under the Facilities Agreement;
 - (ii) in the event that with respect to Subordinated Creditors, more than 20 per cent of the Subordinated Creditors with Subordinated Claims representing more than 20 per cent of the Subordinated Claims are affected by Insolvency proceedings for so long as such Insolvency proceedings subsist, until a legal representative of each relevant Subordinated Creditor has appointed the Trustee to act on its behalf; and/or
 - (iii) in case the Trustee is wound up (for whatever reason), until the Debtor or the Trustee prior to it being wound up has ensured that all Subordinated Creditors have granted a new power of attorney to another entity to act as new trustee on behalf of all Subordinated Creditors (on terms and conditions reasonably acceptable to the Senior Creditor).

6. RECOVERY BY SUBORDINATED CREDITORS

If at any time prior to the Senior Claims Discharge Date, the Subordinated Creditors receive or recover any payment or distribution in cash or in kind from the Debtor (including by way of set-off) other than as permitted under the Facilities Agreement or this Subordination Agreement, the relevant Subordinated Creditor shall promptly notify the Senior Creditor and will on demand pay the Senior Creditor within three business days after such demand the amount of such receipt or recovery.



7. RESTRUCTURING AND AMENDMENTS TO FINANCE DOCUMENTS

- (a) Each Subordinated Creditor hereby agrees that:
- (i) the Senior Creditor and the Debtor may, until the Senior Claims Discharge Date, enter into a restructuring in connection with the Finance Documents without its consent being required; and
 - (ii) notwithstanding Clause 7(a)(i) above, the Senior Creditor may at any time amend or waive the terms of the Finance Documents without the consent of the Subordinated Creditors, unless pursuant to such amendment or waiver (a) rights are granted to a third party and (b) the rights of the Subordinated Creditors are negatively affected thereby.

8. NOTIFICATION OF EVENT OF DEFAULT AND ENFORCEMENT

The Senior Creditor hereby agrees that it shall notify the Trustee in the event (i) an Event of Default has occurred relating to a non-payment under the Facilities Agreement and (ii) it is considering to take any enforcement action pursuant to Clause 13 (*Events of Default*) of the Facilities Agreement. This Clause 8 (*Notification of Event of Default and Enforcement*) contains an irrevocable third party stipulation (*derdenbeding*) in favour of the Trustee (acting in its own capacity).

9. SUBORDINATION IN INSOLVENCY

9.1 Subordinated Events

Until the Senior Claims Discharge Date, if:

- (i) any resolution is passed or order made or proceedings commences in relation to the Insolvency (including a solvent winding-up) of the Debtor; or
- (ii) the Debtor makes a general assignment or an arrangement or composition for the benefit of all (or a particular type of) its creditors, or a moratorium is agreed or declared in respect of or affecting all or a material part of the Senior Claim,

the following provisions of this Clause 9 (*Subordination in Insolvency*) shall apply.

9.2 Filing of claims

The Senior Creditor may, and is irrevocably authorised on behalf of the Subordinated Creditors to, after any of the events set out in Clause 9.1 (*Subordinated Events*) has occurred:

- (a) claim, enforce and prove any of the relevant Subordinated Claims;
- (b) file claims and proofs, give receipts and take all such proceedings in respect of filing such claims or proofs and do all such things as the Senior Creditor sees fit to recover the relevant Subordinated Claims; and
- (c) receive all distributions of the relevant Subordinated Claims for application towards the Senior Claim.



If and to the extent that the Senior Creditor is not entitled, or elects not, to take any of the actions described in this Clause 9.2 (*Filing of claims*), the Subordinated Creditors will do so promptly as instructed by the Senior Creditor.

9.3 Distributions

Until the Senior Claims Discharge Date:

- (a) each Subordinated Creditor will hold all payments and distributions in cash or in kind received or receivable by it in respect of the relevant Subordinated Claims after any of the events set out in Clause 9.1 (*Subordinated Events*) have occurred from the Debtor for the Senior Creditor and will immediately pay and distribute it or, in the case of set-off, pay an amount equal to that payment or distribution on written demand to the Senior Creditor for application towards the Senior Claims;
- (b) each Subordinated Creditor hereby directs the bankruptcy trustee, liquidator or other person distributing the assets of the Debtor or its proceeds to pay distributions in respect of the relevant Subordinated Claims directly to the Senior Creditor; and
- (c) each Subordinated Creditor will promptly do whatever the Senior Creditor reasonably requests to give effect to this Clause 9.3 (*Distributions*).

10. PROTECTION OF SUBORDINATION

10.1 Continuing subordination

The subordination provisions in this Subordination Agreement shall:

- (a) remain in full force and effect by way of continuing subordination; and
- (b) not be affected in any way by any settlement of account or other matter or whatsoever,

until the Senior Claims Discharge Date, unless the Senior Creditor has consented to any earlier discharge in writing.

10.2 Subordination unaffected

Without prejudice to the generality of Clause 10.1 (*Continuing Subordination*), neither the subordination in this Subordination Agreement nor the obligations of the Subordinated Creditors shall be affected in any way by:

- (a) any time, indulgence, concession, waiver or consent given to, or composition with, any Subordinated Creditor or any other person, by the Senior Creditor;
- (b) any amendment to or change in any security, guarantee or indemnity, or the terms of any Senior Claims or relevant Subordinated Claims;
- (c) the making or absence of any demand for payment of any relevant Subordinated Claims on the Subordinated Creditor or any other person, whether by the relevant Subordinated Creditor, the Senior Creditor or any other person;



- (d) the enforcement or absence of enforcement of any security, guarantee or indemnity or any rights under any Senior Claims or relevant Subordinated Claims;
- (e) the taking, existence or release of any security, guarantee or indemnity;
- (f) the Insolvency of any Subordinated Creditor or any other person, or any step being taken in relation to such Insolvency; and
- (g) the illegality, invalidity or unenforceability of, or any defect in, any provisions of any agreement or document relating to any Senior Claims or relevant Subordinated Claims, guarantee or indemnity or any rights or obligations of any of the parties under or in connection with any such document or any security, guarantee or indemnity.

10.3 Discharge

Subject to any prohibition under applicable law, the Subordinated Creditors irrevocably waive any rights to appropriate any payments to, or other sum received, recovered or held by, the Senior Creditor and agree that the Senior Creditor shall have the exclusive rights to appropriate any such payment or other sum in accordance with this Subordination Agreement.

10.4 Subrogation and recovery

Prior to the Senior Claims Discharge Date, the Subordinated Creditors will not under any circumstances be entitled to exercise any right of subrogation or recourse in respect of the rights of the Senior Creditor.

10.5 Pledge

- (a) As security for the obligations of the Debtor under the Facilities Agreement, each Subordinated Creditor hereby pledges, to the extent necessary in advance, in favour of the Senior Creditor all of its Subordinated Claims. Each Subordinated Creditor represents that it is authorised to grant such pledge and the Debtor acknowledges that the aforesaid pledge has been notified to it in its capacity as debtor in respect of any Subordinated Claim.
- (b) Each Subordinated Creditor (in its capacity as pledgor) expressly renounces any and all rights it may have pursuant to or in connection with Articles 3:233 and 3:234 of the Dutch Civil Code.

10.6 Release of Subordinated Claims

Upon notification being given by the Senior Creditor pursuant to Clause 8 (*Notification of Event of Default and Enforcement*), the Senior Creditor is irrevocably authorised (at the cost of the Subordinated Creditors and Debtor and without any consent, sanction, authority or further confirmation from any Subordinated Creditor or the Debtor) to release the Debtor from all or any part of the Subordinated Claims on behalf of the Subordinated Creditors.

11. SENIOR CREDITOR UNDERTAKINGS

11.1 Third party security



Except in case of an Event of Default under the Facilities Agreement or a restructuring in accordance with Clause 7 (*Restructuring and amendments to Finance Documents*), the Senior Creditor or Debtor shall not allow another (third) party to establish security rights (including a right of pledge) over the assets of the Debtor, without prior approval of the Subordinated Creditors. For the avoidance of doubt, in case such other (third) party is authorised to establish a security right (after approval of the Subordinated Creditors), the Subordinated Creditors will be granted a security right which shall rank higher than the security created in favour of this (third) party.

11.2 Application of proceeds

In the event that the Senior Creditor has exercised its right under Clause 9.2 (*Filing of claims*) or 10.6 (*Release of Subordinated Claims*) and subsequently received distributions and/or proceeds (as the case may be) pursuant to which the Senior Claims have been paid in full, it shall, subject to any provisions of applicable law entitling the Debtor to such amounts not precluding such payment, pay any remaining amounts to the Trustee for application (on a *pro rata* basis) towards any claims for amounts to which the Subordinated Creditors are directly entitled. This Clause 11.2 contains an irrevocable third party stipulation (*derdenbeding*) in favour of the Trustee (acting in its capacity for and on behalf of the Subordinated Creditors).

12. REPRESENTATIONS

Each Subordinated Creditor makes the representations and warranties set out in this Clause 12 (*Representations*) (to the extent applicable).

12.1 Status

- (a) It is duly incorporated or established and validly existing under the laws of its jurisdiction of incorporation.
- (b) It has the power to own its assets and to carry on its business as it is being conducted.

12.2 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, this Subordination Agreement do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets,

in a manner or to an extent which, in the case of sub-clause (c) above only, has or is reasonably likely to have a material adverse effect.

12.3 Binding obligations

The obligations expressed to be assumed by it in this Subordination Agreement are legal, valid, binding and enforceable obligations.



12.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Subordination Agreement and the transactions contemplated by this Subordination Agreement.

13. OVERRIDE AND AMENDMENTS TO THE SUBORDINATED LOAN DOCUMENTS

13.1 Override and Amendments

This Subordination Agreement overrides anything in the Subordinated Loan Documents to the contrary (unless such contradiction is permitted under the Facilities Agreement) and, with effect from the date of this Subordination Agreement, the Subordinated Loan Documents will be deemed to have been amended to reflect that:

- (a) all payment obligations of the Debtor under each Loan (whether in respect of principal, interest or otherwise) shall be subject to the provisions of this Subordination Agreement; and
- (b) the subordination of the Subordinated Claims as described in any Subordinated Loan Documents shall be subject to and extended with the provisions of this Subordination Agreement.

13.2 Continuing obligations

- (a) The provisions of the Subordinated Loan Documents will, except as amended by this Subordination Agreement, continue in full force and effect.
- (b) References in this Subordination Agreement to the Subordinated Loan Documents or to any provisions thereof will be construed as references to the Subordinated Loan Documents, or that provision, as amended pursuant to this Subordination Agreement.

14. WAIVERS

No delay or omission by the Senior Creditor in exercising any right, power or privilege provided under this Subordination Agreement or by law will impair such right, power or privilege or be construed as a waiver thereof, nor shall the single or partial exercise of any such right, power or privilege preclude the future exercise thereof or the exercise of any other right, power or privilege.

15. TRANSFER OF LOANS

The Subordinated Creditor is entitled to assign its rights under its Loan(s) to any assignee permitted under Netherlands law by means of a private deed of transfer in the form as included in Annex II (*Form of Transfer Deed*), executed by the relevant Subordinated Creditor and the relevant assignee, provided that (i) any such assignee is a private individual acting on behalf of itself and not acting on behalf of any fund, institution or other entity regularly engaged in or established for the purpose of making, purchasing or investing in loans and (ii) the relevant Subordinated Creditor has received prior written consent from the Senior Creditor for such transfer (such consent not to be unreasonable withheld).



16. ASSIGNMENT AND TRANSFER

Subject to Clause 15 (*Syndication*) of the Facilities Agreement, the Senior Creditor is entitled to assign and/or transfer all or part of its rights and obligations under this Subordination Agreement to any assignee and/or transferee permitted under Netherlands law, and each Subordinated Creditor and the Debtor hereby give their irrevocable consent to such assignment and/or transfer in advance (*geeft onherroepelijk toestemming bij voorbaat*), or, if applicable, irrevocably cooperate in advance, within the meaning of Article 6:159 of the Dutch Civil Code, with an assumption of contract (*contractoverneming*) by the Senior Creditor to any such assignee and/or transferee. The Senior Creditor is entitled to impart any information concerning the Debtor to any successor or proposed successor as far as necessary for such assignment and/or transfer.

17. DISSOLUTION, SUSPENSION AND ERROR; CONSENT

17.1 The Debtor and each Subordinated Creditor hereby waive to the fullest extent permitted by law their right to dissolve (*ontbinden*) or annul (*vernietigen*) the legal acts (*rechtshandelingen*) or suspend (*opschorten*) any obligations represented by this Subordination Agreement and such waiver is hereby accepted by the Senior Creditor.

17.2 The Debtor, the Senior Creditor and each Subordinated Creditor shall bear the risk of any error (*dwalings*) made by it in relation to this Subordination Agreement.

17.3 The Senior Creditor hereby confirms and agrees that any financial indebtedness under the Loans are permitted financial indebtedness under the Facilities Agreement.

18. EVIDENCE

The entries made in the accounts maintained by the Senior Creditor are conclusive evidence (*dwingend bewijs*) of the matters to which they relate, in absence of any manifest errors.

19. TERMINATION

This Subordination Agreement will be terminated pursuant to a written notice of the Senior Creditor that the Senior Claims have been fully repaid, which notice shall be immediately provided upon payment of the Senior Claim.

20. NOTICES

Any notice or other communication to be given under this Subordination Agreement shall be in writing, signed by or on behalf of the Party giving it and may be given by delivering it by hand, or by sending it by prepaid registered mail or courier service, confirmed facsimile transmission, or by email to the address specified below:

In case of the **Subordinated Creditors**

Stichting Zonedelers
 Attn: S. Pluut
 Address: Distelweg 451
 1031 HD Amsterdam



E-mail: info@zonnepanelendelen.nl.

In case of the **Debtor**

Zonneakker de Watering B.V.
 Attn: G. Smit and N. Kruims
 Address: Leonard Springerlaan 19
 9727 KB Groningen
 E-mail: Info@solarfields.nl

In case of the **Senior Creditor**

Hamburg Commercial Bank AG
 Attn: Julia Eisenmann
 Address: Gerhart-Hauptmann-Platz 50
 20095 Hamburg
 E-mail: julia.eisenmann@hcob-bank.com

21. AMENDMENTS AND WAIVERS

This Subordination Agreement may only be amended, supplemented, or waived by means of a written agreement to this effect between the Parties.

22. SEVERABILITY

If any provision in this Subordination Agreement shall be held to be illegal, invalid, or unenforceable, in whole or in part, under any applicable law:

- (a) such provision or part shall to that extent be deemed not to form part of this Subordination Agreement but the legality, validity, binding effect or enforceability of the remainder of this Subordination Agreement shall not be affected; and
- (b) the Parties shall use best efforts to agree a replacement provision that is legal, valid, binding and enforceable to achieve so far as possible the intended effect of the illegal, invalid, non-binding or unenforceable provision.

23. GOVERNING LAW AND JURISDICTION

- (a) This Subordination Agreement (including this Clause 23 (*Governing law and jurisdiction*)) shall be governed by, and construed in accordance with, Netherlands law.
- (b) The Parties irrevocably submit to the exclusive jurisdiction of the court (*rechtbank*) of Amsterdam, the Netherlands, and any appellate court thereof, to settle any and all disputes that arise out of or in connection with this Subordination Agreement.
- (c) If a Party to this Subordination Agreement is represented by an attorney in connection with the execution of this Subordination Agreement or any document connected with this Subordination Agreement and that Party has chosen Netherlands law to govern the power of attorney, the other Party hereby accepts this choice of governing law, in



accordance with Article 14 of the Hague Convention on the Law Applicable to Agency of 14 March 1978.

[Signature page follows]



ANNEX I
THE CROWDFUNDERS



ANNEX II
FORM OF TRANSFER DEED



THIS SUBORDINATION AGREEMENT HAS BEEN ENTERED INTO ON THE EXECUTION DATE

THE SUBORDINATED CREDITORS

.....

THE CROWDFUNDERS, represented by the Trustee

Name: _____

Title: _____

THE DEBTOR

.....

ZONNEAKKER DE WATERING B.V.

Name: _____

Title: _____

.....

ZONNEAKKER DE WATERING B.V.

Name: _____

Title: _____

THE SENIOR CREDITOR

.....

HAMBURG COMMERCIAL BANK AG

Name: _____

Title: _____

.....

HAMBURG COMMERCIAL BANK AG

Name: _____

Title: _____