

**SOLAR ENERGY LEASE AGREEMENT**

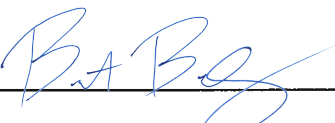
This SOLAR ENERGY LEASE AGREEMENT ("**Lease**") is entered into effective as of the Effective Date set forth below, by and between (i) Henderson County Solar LLC, a Delaware limited liability company (the "**Company**"), and (ii) the landowner(s) set forth below ("**Landowner**"). Landowner and Company may be referred to below together as the "**Parties**" and each a "**Party**."

1. **Effective Date:** September 25, 2020
2. **Landowner(s):** Jeffrey A. Francis and Beth P. Francis
3. **Leased Property:** The real property (excluding coal, oil, gas and all other minerals) located in Henderson County, Kentucky, generally depicted on Exhibit B. See §1.1.
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4. **Development Feasibility Term:** Commences on the Effective Date and ends on the earliest to occur of Groundbreaking or two (2) years following the Effective Date, subject to options to extend. See §4.2.
5. **Commercial Term:** Commences on the Commercialization Date and ends thirty (30) years thereafter, subject to options to extend. See §4.3.
6. **Rent:**  
Development Feasibility Term: [REDACTED] per leased acre per year. See §5.1.  
Commercial Term: [REDACTED] per leased acre in Year 1, escalating at [REDACTED] thereafter. See §5.2.
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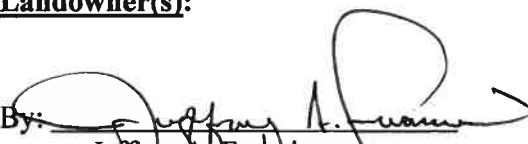
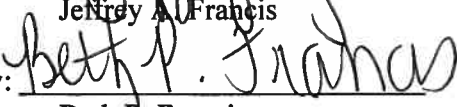
The following Exhibits are attached and incorporated herein by reference:

- Exhibit A** - Standard Terms and Conditions
- Exhibit B** - Description of Leased Property
- Exhibit C** - Form W-9

**Company:**

By:   
Name: Brent Beerley  
Title: Manager

**Landowner(s):**

By:   
Jeffrey A. Francis  
By:   
Beth P. Francis

**EXHIBIT A**

**STANDARD TERMS AND CONDITIONS**

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1. **Grant of Lease**

1.1. **General.** For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Landowner(s) identified on the Cover page hereto (generally, “**Landowner**”) hereby leases to Company, and Company hereby leases from Landowner, the real property (excluding coal, oil, gas and all other minerals) depicted in the drawing attached hereto and incorporated herein as Exhibit “B” (the “**Leased Property**”).

1.2. **Development Feasibility Term.** During the Development Feasibility Term, Company shall use the Leased Property to evaluate and determine the feasibility of development of an electrical generating facility for the conversion of solar energy into electrical energy (the “**Solar Facility**”).

Landowner expressly reserves the right to use the Leased Property during the

Development Feasibility Term for uses that do not and will not interfere with Company's operations hereunder or enjoyment of the rights hereby granted, specifically including, but not limited to farming, provided, however, that:

a. Landowner may not use the Leased Property in a manner inconsistent with Company's use of any access roads;

b. any such use of the Leased Property by Landowner shall not include solar energy development or the installation or use of any facilities related to solar energy development or generation (which rights and uses are exclusively granted to Company in this Lease); and

c. any easements or leases entered into by Landowner with respect to the Leased Property after the date of this Lease shall expressly provide that they are subject and subordinate in all respects to this Lease and to the rights of Company and any assignee hereunder.

1.3. Commercial Term. During the Commercial Term, Company shall use the Leased Property for the development, construction, ownership, operation, maintenance and repair of the Solar Facility. In connection with such use, Company shall have the exclusive right:

a. to construct, install and operate on the Leased Property multiple solar panels and inverters;

b. to erect, construct and use all the necessary and requisite devices, fixtures, appurtenances and facilities for the Solar Facility, as determined in the sole and absolute discretion of Company, including but not limited to: foundations, supports, concrete pads and footings; fences, and roads for ingress and egress of construction and maintenance vehicles; the physical preparation of the sites on which the Solar Facility will be installed and the preparation of access routes thereto (whether located on the Leased Property or, if necessary, on the Adjacent Property); power collection facilities, including underground or above ground distribution and collection lines between Solar Facility Equipment and from Solar Facility Equipment to one or more substations and points of interconnection with the power grid, wires and cables, conduit and above-ground transformers for the Solar Facility; substations or interconnection and switching facilities which Company may connect to a utility transmission system or the transmission system of another purchaser of electrical energy; underground or above ground control, communications and telecommunications equipment, including underground fiber, wires, cables and conduit; erosion control facilities; signs, gates and other safety and protection facilities; control and administration buildings; and other improvements, facilities, appliances, machinery and equipment in any way related to or associated with any of the foregoing (all of the foregoing, including the solar panels and inverters, collectively referred to herein as the "**Solar Facility Equipment**");

c. to maintain, clean, repair, replace and dispose of part or all of the Solar Facility Equipment;

d. to allow and control access of third parties to the Leased Property. The Company may invite third parties upon the Leased Property without permission from the Landowner so long as the terms of this Lease are not violated;

e. to trim or cut down trees, shrubs or any other landscaping and vegetation on the Leased Property or Adjacent Property as may be necessary for the exercise of rights granted to Company pursuant to this Lease; and

f. to gate or otherwise secure any access roads on or to the Leased Property, provided that Company shall work with Landowner to ensure Landowner's commercially reasonable access to same consistent with industry standard practices.

1.4. General Powers of Company. The rights granted to Company in this Lease permit Company, without limitation, to undertake all activities that Company determines are necessary, useful, appropriate or convenient in connection with, or incidental to the development, construction and operation of the Solar Facility or for the benefit thereof, including conducting surveys and environmental, biological, cultural and other tests and studies and conducting site tours to demonstrate the generation of electricity from solar power for educational and commercial purposes.

1.5. Design and Placement of Solar Facility Equipment. Company shall have sole and absolute discretion as to the location of Solar Facility Equipment on the Leased Property and the extent of construction activity required in connection with such Solar Facility Equipment. Prior to Company's construction of the Solar Facility, however, Company shall consult with Landowner for informational purposes only. Landowner acknowledges that a portion of the Solar Facility Equipment to be constructed by Company on the Leased Property may include buried and/or above ground electrical and communications lines among Solar Facility Equipment, and from the Solar Facility to electrical substations and other points of interconnection on the power grid serving the Solar Facility.

1.6. Roads. Company shall have the right to use the existing roads on the Leased Property and to construct or improve, from time to time and at any time, one or more additional roads over, across and through the Leased Property as suitable for Company's use thereof.

1.7. Repowering. The Parties recognize that (1) power generation technologies are improving at a rapid rate and that Company may (but shall not be obligated to) from time to time replace or repair Solar Facility Equipment on the Leased Property with newer (and potentially smaller or larger) models and types of Solar Facility Equipment, and (2) the activities contemplated by this Lease may be accomplished by Company or by one or more third parties authorized by Company.

1.8. Defined Terms. As used herein, the term "**Adjacent Property**" shall mean any and all property or properties owned at any time during the Term by Landowner, and/or the Affiliates of Landowner, that are contiguous with the Leased Property. As used herein, the term "**Affiliate**" means any other person or entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the Landowner. The term "**control**" as used with respect to any person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities or partnership interests, by contract or otherwise.

**2. Easements.**

2.1. Grant. Without limiting the rights set forth elsewhere in this Lease, Landowner hereby grants to Company the following easements during the Term of this Lease (collectively, the “*Easements*”):

a. an exclusive easement to use, convert, maintain and capture the free and unobstructed flow of solar energy resources over and across the Leased Property and the Adjacent Property;

b. the right to utilize, on a nonexclusive basis, any access, utility, water, communication, sewer, septic, transmission or other easements, rights of way or licenses already held by Landowner over the Adjacent Property, or any other property in the vicinity of the Leased Property, which Company determines could be used for the benefit of the Solar Facility, as permitted by the instruments evidencing such rights and other applicable laws;

c. nonexclusive easements on, over, across, under and through the Adjacent Property to install and maintain power, water, communications, sewer, transmission and other such lines that Company determines could be used for the benefit of the Solar Facility;

d. nonexclusive easements for access to the Leased Property, over and across the Adjacent Property, including for vehicular and pedestrian ingress, egress and access to and from the Solar Facility Equipment, whether by means of roads and lanes previously existing on the Adjacent Property or otherwise by such route(s) as Company may construct from time to time;

e. an easement over the Adjacent Property for audio, visual, view, light, flicker, noise, vibration and any other effects attributable to the Solar Facility; and

f. an easement over the Adjacent Property to evaluate and determine the feasibility of the solar facility on Landowner’s Property in a location that varies from the Leased Property, as depicted in Exhibit B.

2.2. Terms and Conditions. With respect to each Easement:

a. to the extent permitted by applicable federal, state and local laws, statutes, ordinances, orders, rules and regulations, such Easement shall be appurtenant to the Leased Property;

b. such Easement shall run with and benefit the Leased Property (and such other lands, as applicable) and inure to the benefit of and be binding upon Landowner and the holder of the Easement and their respective successors and assigns, and all persons claiming under them;

c. no act or failure to act on the part of Company or the holder of the Easement shall be deemed to constitute an abandonment, surrender or termination thereof, except (i) upon recordation by such holder of a quitclaim deed specifically conveying the Easement back to

Landowner or (ii) the termination of this Lease pursuant to Sections 4.2(b), 4.3(b) and 12.1(b) hereof;

d. such Easement shall terminate and the land shall revert back to Landowner upon the expiration or termination of this Lease, at which time Company or the holder of the Easement shall provide to Landowner a written quitclaim deed and release in recordable form conveying the Easement back to Landowner;

e. non-use of the Easement shall not prevent the future use of the entire scope thereof; and

f. no use of or improvement to the Leased Property or any lands benefited by the Easement, and no assignment or sublease hereof or thereof, shall, separately or in the aggregate, constitute an overburdening of the Easement.

2.3. **Stand-Alone Agreements.** Upon Company's request from time to time, Landowner shall grant to Company (or a party designated by Company), in recordable form and containing such terms and provisions as may reasonably be requested by Company for no additional consideration:

a. stand-alone easements for any of the Easements granted hereunder; or

b. in the case of Easements already held by Landowner, subeasements,

c. The term of the easements described in Section 2.3 shall run concurrently with the Term (or for a shorter period of time as may be requested by Company) and shall terminate upon the expiration or termination of this Lease.

3. **Survey.** Prior to the Commercialization Date (as defined below), Company shall cause to be conducted, at Company's sole expense, a survey of the Leased Property and the Easements. Landowner shall cooperate therewith. Company shall provide a copy of such survey to Landowner. Following the completion of the survey, the Parties shall amend this Lease to include a metes-and-bounds description of the Leased Property, the Easements, and the Adjacent Property, as described in the Lease and on which Company has certain rights set forth in the Lease, including a solar right of first refusal.

#### 4. **Lease Term.**

4.1. **Commercialization Date.** The "***Commercialization Date***" for the Solar Facility means the date on which "Groundbreaking" occurs. As used herein, "Groundbreaking" shall mean the earlier of (a) when earth is moved for the improvement of the Leased Property for the construction of the Solar Facility, (b) when the first Solar Facility support structure is installed below grade at the Leased Property, or (c) when Company elects to make the first annual Commercial Term rent payment in the amount set forth in Section 5.2(a). Movement of earth for evaluation of the Leased Property shall not be considered Groundbreaking and shall not cause the

Commercialization Date to occur. Company shall notify Landowner promptly if and when the Commercialization Date occurs.

4.2. Development Feasibility Term.

a. The Development Feasibility Term of this Lease shall commence on the Effective Date and end on the earlier to occur of the Commercialization Date or two (2) years after the Effective Date (the “*Development Feasibility Term*”); provided that Company shall have the right to extend the Development Feasibility Term for up to two (2) additional six (6) month periods, by notice to Landowner before the expiration of the Development Feasibility Term or the extended Development Feasibility Term. If the Commercialization Date does not occur prior to expiration of the Development Feasibility Term (as it may be extended), this Lease shall terminate.

b. Company, in its sole and absolute discretion, shall have the right to terminate this Lease, as to all or any portion of the Leased Property, at any time during the Development Feasibility Term, effective upon at least seven (7) days written notice to Landowner. If such termination is as to only part of the Leased Property, (i) this Lease shall remain in effect as to the remainder of the Leased Property, and (ii) Company will be obligated to satisfy the obligations set forth in Section 7 for that portion of the Leased Property with respect to which Company has exercised such termination right.

4.3. Commercial Term.

a. The Commercial Term shall commence on the Commercialization Date, and shall end thirty (30) years thereafter, provided that Company shall have the right to extend the Commercial Term for up to two (2) additional periods of five (5) years each (each, an “*Extended Term*”), by notice to Landowner before the expiration of the Commercial Term or the Extended Term. Company may elect to exercise its option to extend the Term by giving Landowner written notice of such election not earlier than eighteen (18) months and not later than six (6) months prior to the expiration of the then-current term of this Lease. Upon satisfaction of the notice requirements to Landowner, this Lease shall be extended for such Extended Term upon the same terms, conditions and covenants as are contained in this Lease, subject to Section 5.2(b) below.

b. Company, in its sole and absolute discretion, shall have the right to terminate this Lease, as to all or any portion of the Leased Property, at any time during the Commercial Term, effective upon at least ninety (90) days written notice to Landowner. If such termination is as to only part of the Leased Property, (i) this Lease shall remain in effect as to the remainder of the Leased Property, and (ii) Company will be obligated to satisfy the obligations set forth in Section 7 for that portion of the Leased Property with respect to which Company has exercised such termination right.

4.4. Term. As used herein, the “*Term*” shall mean collectively the Development Feasibility Term (including any extension(s) thereof) and the Commercial Term (including any Extended Term(s)).

**5. Landowner Rent, Consideration and Other Terms.**

5.1. Rent During the Development Feasibility Term. During the Development Feasibility Term, Company shall pay to Landowner [REDACTED] per leased acre per year (the “*Development Feasibility Term Rent*”). In the event the leased acreage is less than 93.99 acres, the Development Feasibility Term Rent shall be equal to [REDACTED]. In the event the Development Term is extended pursuant to Section 4.3(a) of this Agreement, the Development Feasibility Term Rent shall be equal to [REDACTED]. The rent for the first year of the Development Feasibility Term shall be due within thirty (30) days after the Effective Date. The rent for each subsequent year of the Development Feasibility Term, or any [REDACTED] extension of the Development Feasibility Term, shall be payable on or before the commencement of any such Development Feasibility Term. Any rent payable for any Development Feasibility Term shall be non-refundable and shall not offset any future amounts due under this Agreement.

5.2. Rent During the Commercial Term.

a. For the first year of the Commercial Term, Company shall pay to Landowner “*Commercial Term Rent*” equal to the greater of [REDACTED] per acre of Leased Property or [REDACTED] (which is the product of [REDACTED] per acre multiplied by 93.99 acres). The Commercial Term Rent for the first year of the Commercial Term shall be due on or before the Commercialization Date. For each subsequent year of the Commercial Term, Company shall pay to Landowner Commercial Term Rent equal to the prior year’s Commercial Term Rent increased by [REDACTED]. The Commercial Term Rent for each subsequent year of the Commercial Term, as it may be extended, shall be due on or before each anniversary of the Commercialization Date. Any rent payable for less than a full 12-month period shall be prorated on the basis of a 365-day year.

b. Rent for the first year of each Extended Term (if any) shall be set to equal the Commercial Term Rent paid in the prior year, increased by [REDACTED]. Commercial Term Rent for each subsequent year of any Extended Term shall escalate at [REDACTED].

5.3. Additional Consideration and Other Terms.

a. In the event Company’s activities during the Development Feasibility Term damage any crops in commercial cultivation on the Leased Property or in the event the Commercialization Date occurs during the commercial cultivation of crops on the Leased Property, Company shall pay to Landowner, or Landowner’s tenant as applicable, [REDACTED].

b. For each month it takes Company to accomplish the tasks listed in Sections 7.1. a-c below, Company shall pay Landowner pro-rated rent in a manner and amount commensurate with the rent applicable to the Leased Property in the last year of the Commercial Term.

d. Landowner shall furnish Company with a signed, completed form W-9 by the Effective Date, and thereafter within thirty (30) days of any event causing a change in any of



the information set forth in the previously-delivered W-9, including any transfer or assignment of the Landowner's interest in the Lease. Without limiting Company's obligation to pay Rent or other amounts due to Landowner hereunder, Company shall be entitled to delay making any such payments to Landowner until Landowner has provided such W-9. For convenience, the W-9 form is attached as Exhibit C.

5.4. Most Favored Nations. In the event Company agrees to pay and pays Rent as described in Sections 5.1 and 5.2 of this Lease in a lease agreement with another landowner for property within 10 miles of the Leased Property and more than five (5) acres in size which contains substantially similar terms to the terms of this Lease at a rate higher than provided in Sections 5.1 and 5.2, then Company shall offer such higher rate to Landowner. If Landowner accepts in writing, such increased Rent shall be effective as of the date of Landowner's acceptance and shall be paid with the next installment of Rent due to Landowner.

6. Property Taxes. Company shall pay any personal property taxes assessed or levied against the Solar Facility Equipment. Company shall reimburse Landowner for any real property taxes levied against the Leased Property, including any "roll-back" taxes directly related to the reclassification of the Leased Property as a result of the Solar Facility or this Lease, to the extent that such taxes are not separately assessed to Company and paid directly by Company to the taxing authorities. Company shall not be liable for taxes attributable to facilities installed by Landowner or others on the Leased Property. It is a condition to Landowner's right to reimbursement of any taxes hereunder that Landowner shall have paid such taxes to the taxing authority, shall have provided proof of such payment to Company within fifteen (15) days of the payment, and shall have submitted the related tax bills to Company within fifteen (15) days after Landowner receives such bills from the taxing authority. If Landowner fails to make such payment and provide proof thereof to the Company, the Company shall be entitled (but not obligated) to make payments in fulfillment of Landowner's obligations to the taxing authority and may offset the amount of such payments from any amounts due Landowner under this Section 6 of the Lease. Further, Company shall have the right to pay its portion of the real property taxes directly to the taxing authority, provided it provides proof of such payment to the Landowner. Company shall make commercially reasonable efforts to cause the leasehold estate of Company to be separately assessed for property tax purposes.

7. Removal of Solar Facility Equipment and Restoration of Property.

7.1. Upon Termination. As soon as reasonably practicable but in no event later than six (6) months following the expiration or earlier termination of this Lease, Company shall, at Company's sole cost and expense,

- a. remove all above-ground Solar Facility Equipment,
- b. remove all Solar Facility Equipment installed below-grade, and
- c. restore the soil surface of the Leased Property and any affected area of the

Adjacent Property to a condition reasonably similar to its original condition.

7.2. Landowner Right to Perform. If Company fails to so remove the Solar Facility Equipment within six (6) months after the termination or expiration of this Lease, Landowner may do so and Company shall reimburse Landowner for the reasonable and actual costs of removal incurred by Landowner, less any salvage value received by Landowner, within thirty (30) days after receipt of an invoice from Landowner.

7.3. Decommissioning Cost. No more than 90 days in advance of the Commercialization Date, Company shall provide to Landowner an estimate of the cost, calculated by a reputable, mutually agreed upon third-party engineer not associated with the engineer or engineering firm that prepared the site plan or construction plans for the Solar Facility, for the removal of the Solar Facility Equipment from the Leased Property and the restoration of the soil surface of the Leased Property (the “*Decommissioning Cost Estimate*”). The estimated net market value of scrap or recyclable materials shall be considered in calculating the Decommissioning Cost Estimate. The Decommissioning Cost Estimate shall be updated every five (5) years at Company’s sole expense.

7.4. Posting of Security. No later than the Commercialization Date, and for the remaining duration of the Commercial Term (as it may be extended), Company shall post or arrange for the posting of security funds in a manner and amount sufficient to ensure decommissioning of the Solar Facility and removal of the Solar Facility Equipment from the Leased Property consistent with the Decommissioning Cost Estimate, as it may be updated (“*Decommissioning Security*”). The Decommissioning Security may be posted with an appropriate commercial entity, or if required, a local government agency. The form of the Decommissioning Security shall be in the form of a guaranty, bond, letter of credit, or other form of surety from an entity with an unsecured debt rating of at least BBB- by S&P or Baa3 by Moody’s. Landowner shall have the right to review and approve the form of and plan for using the Decommissioning Security; provided, however, such approval shall not be unreasonably withheld, conditioned or delayed. In the event that a governmental entity with jurisdiction over the Solar Facility requires Company to post a bond or security to secure its performance in removing the Solar Facility Equipment and restoring the Leased Property, then Company’s posting of such bond or security shall be deemed to satisfy its obligations arising under this Section 7.4 to the extent of the amount of such bond or security. To the extent of any deficiency between the Decommissioning Cost Estimate and the amount required to be posted by the governmental authority, then Company shall post security in the amount of the deficiency consistent with acceptable forms of such security listed in this Section 7.4. Company shall provide written evidence to Landowner of Company’s posting of security within thirty (30) days of such posting. The Decommissioning Security shall remain in effect until Company has completed the decommissioning of the Solar Facility and the removal of the Solar Facility Equipment from the Leased Property and met all of Company’s obligations required under Section 7.1 of this Lease. The failure of Company to secure, update and maintain the Decommissioning Security shall constitute a default of Company under this Lease.

7.4 Decommissioning Plan by Governmental Authority. In the event that a

decommissioning plan related to the Solar Facility is reviewed and approved by a governmental authority having jurisdiction (typically the county in which the Solar Facility is located), then Company's performance of the decommissioning plan's obligations shall satisfy Company's obligations set forth in this Section 7 of the Lease. Notwithstanding the foregoing, Company shall remain obligated to remove the Solar Facility Equipment and restore the Leased Property in the manner described in this Section 7.

**8. Company's Representations, Warranties and Covenants.**

8.1. Company's Authority. Company represents to Landowner that Company has the unrestricted right and authority to sign this Lease, and when signed by Company, this Lease constitutes a valid and binding agreement enforceable against Company in accordance with its terms.

8.2. Requirements and Governmental Agencies. Company shall comply in all material respects with valid laws applicable to the Solar Facility Equipment, but shall have the right, in its sole discretion and expense, in its name or Landowner's name, to contest the validity or applicability to the Leased Property and/or the Solar Facility Equipment of any law, ordinance, order, rule or regulation of any governmental agency or entity. Company shall control any such contest and Landowner shall cooperate with Company in every reasonable way in such contest, at no out-of-pocket expense to Landowner.

8.3. Mechanic's Liens. Company shall keep the Leased Property and the Adjacent Property free and clear of all liens and claims of liens for labor and services performed on, and materials, supplies or equipment furnished to, the Leased Property in connection with Company's use of the Leased Property pursuant to this Lease. Company agrees to remove or bond over any such lien that is caused by Company's use of the Leased Property within 45 calendar days of receiving notice of such lien.

8.4. Hazardous Materials. Company shall indemnify Landowner against Company's material violation on the Leased Property or Adjacent Property of any applicable law or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any substance, material or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state or local laws or regulations, on or under the Leased Property or the Adjacent Property.

8.5. Safety Measures. Company shall take reasonable safety and security measures to reduce the risk of damage to the Solar Facility or the risk that the Solar Facility will cause damage, injury or death to people, livestock and other animals and property, as Company deems necessary or appropriate.

8.6. Damage to Fences and Gates. Company shall repair any damage caused by Company, at no cost to Landowner, to any fences, gates, buildings and other fixtures located on the Leased Property or within the area of any Easements (the "***Landowner Improvements***") to the extent caused by the construction or operation of the Solar Facility provided the Landowner

Improvements do not conflict with the ongoing construction, operation and maintenance of the Solar Facility.

8.7. Electric Lines. Company shall use commercially reasonable efforts to install any electrical lines so that, following installation of the electrical lines, the land surrounding such lines may be used by the Parties in accordance with the terms of this Lease.

8.8. Maintenance of Leased Property and Access Roads. Company shall maintain the Leased Property in a manner consistent with returning the same back to its original condition as required by section 7 above, including, but not limited to erosion and weed control measures, as and when reasonably deemed necessary by Company. Company shall maintain all access roads serving the Leased Property, including erosion and weed control measures, as and when reasonably deemed necessary by Company.

**9. Landowner's Representations, Warranties and Covenants.** Landowner hereby represents as follows:

9.1. Landowner's Authority. To the best of Landowner's knowledge Landowner has good title to the Leased Property, subject only to those matters that appear of record in the Henderson County Clerk's Office, and has full right and authority to make this Lease and to perform as required hereunder, and this Lease does not conflict with, and its execution by Landowner will not result in a default or event of default under, any other agreement to which Landowner is bound. When signed by Landowner, this Lease constitutes a valid and binding agreement enforceable against Landowner in accordance with its terms. No rights to convert the solar resources of the Leased Property or to otherwise use the Leased Property for solar energy purposes have been granted to or are held by any other party other than Company. To the best of Landowner's knowledge there are no covenants, restrictions, rights of way, easements or other encumbrances on the Leased Property that will prevent Company's use of the Leased Property as contemplated herein. The Leased Property is subject to an oral farm lease.

9.2. Ownership of Solar Facility; Not a Fixture. Company, or its nominee, is the exclusive owner and operator of the Solar Facility. Except as provided in Section 7.2 hereof, Landowner shall have no ownership or other interest in any Solar Facility Equipment installed on the Leased Property or on the Adjacent Property, and Company shall at all times retain title to the Solar Facility Equipment, with the right, at any time and in its sole discretion, to remove, replace or repair one or more components of Solar Facility Equipment. The Solar Facility and the Solar Facility Equipment are not fixtures, and Landowner may not sell, lease, assign, mortgage, pledge or otherwise alienate or encumber (collectively, a "*Transfer*") the Solar Facility or any Solar Facility Equipment together with its fee interest or leasehold rights to the Leased Property. Landowner represents that it shall keep the Solar Facility Equipment free from all liens, specifically, excluding any and all landlord liens. Should any liens, other than landlord liens, be filed against the Solar Facility Equipment by reason of the acts of Landowner, such Party shall cause the lien to be cancelled or otherwise discharged within thirty (30) days of receiving notice of such lien.

9.3. Notice of Transfers. Landowner shall give Company at least thirty (30) days written notice prior to any Transfer of all or a portion of the Leased Property or the Adjacent Property identifying the transferee, the portion of Landowner's property to be transferred and the proposed date of Transfer. This Lease shall run with the Leased Property and survive any Transfer thereof.

9.4. No Interference. Company shall have the sole and exclusive right to convert all of the solar resources of the Leased Property. Landowner's activities and any grant of rights Landowner makes to any third party, whether located on the Leased Property, the Adjacent Property or elsewhere, shall not, now or in the future, interfere in any way with Company's use of the Leased Property, or the rights granted under this Lease or the Easements. In furtherance of the foregoing, Landowner shall not interfere with the solar resource or otherwise construct or permit to be constructed any structure that prevents, inhibits or impairs the solar resource over the Leased Property, or engage in any activity on the Leased Property or any Adjacent Property that might cause a decrease in the output or efficiency of the Solar Facility Equipment, as determined by Company in its sole and absolute discretion, including, without limitation, the construction of structures or planting of trees that would interfere with the free and unobstructed access to solar resources. Landowner shall not allow any activity to take place on the Adjacent Property that, in Company's reasonable determination, would adversely impact the development, construction and operation of the Solar Facility or the use of any easements across the Adjacent Property.

9.5. Estoppel Certificates. From time to time, within fifteen (15) days after written request from Company, Landowner shall execute and deliver an estoppel certificate certifying as to the status of this Lease and each Party's performance thereunder.

9.6. Requirements of Governmental Agencies. Landowner shall assist and fully cooperate with Company, at no out-of-pocket expense to Landowner, in applying for (including signing in Landowner's name, if necessary), complying with, completing or obtaining, as applicable, any land use permits and approvals, building permits, zoning variances, subdivision requirements, environmental impact reviews or any other approvals required for the financing, construction, installation, replacement, relocation, maintenance, operation or removal of the Solar Facility Equipment. Landowner shall make available to Company copies of all field surveys, environmental, geological and other site assessments, surveys, plans and other such records of Landowner related to the Leased Property and the Adjacent Property.

9.7. Zoning. Should zoning or other property-use regulations be proposed that might require property-line set-backs or other burdens more restrictive in nature than those in existence on the Effective Date, Landowner shall cooperate with Company in resisting or obtaining exemption from such regulations for the Solar Facility.

9.8. Hazardous Materials. Landowner represents to Company that, to the best of Landowner's knowledge:

a. there are no abandoned wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks located on the Leased Property;

b. the Leased Property does not contain levels of petroleum or hazardous substances which require remediation under applicable environmental laws or regulations;

c. the Leased Property is not subject to any pending or threatened judicial or administrative action, investigation or order under any applicable environmental laws or regulations;

d. Landowner has not caused or contributed to a release or threatened release of hazardous substances or waste to, at, on, in or from the Leased Property, except in compliance with applicable environmental laws and regulations.

9.9. Landowner's Lenders.

a. Landowner shall promptly notify its lenders or any other party holding a mortgage, deed of trust or other security interest in the Leased Property of this Lease and Company's rights herein, and shall request that such lender, trustee or security interest holder simultaneously send any notice of Landowner's default to Landowner and Company. Regardless, Landowner agrees to promptly provide Company with a copy of any default notices that Landowner receives from any of its lenders or other party holding a mortgage, deed of trust or security interest in the Leased Property.

b. Company shall, at its own cost, procure a current abstract of title or preliminary title report for the Leased Property, showing all liens and other exceptions to title to the Leased Property and Landowner shall reasonably cooperate therewith. Upon request by Company, Landowner shall assist Company in obtaining, or allow Company to obtain a nondisturbance and subordination agreement from each mortgagee of the Leased Property and the Easements, or any portion thereof, under which the relevant lienholders agree not to disturb Company's possession or rights under this Lease or terminate this Lease so long as Landowner is not entitled to terminate this Lease under its terms.

c. If Landowner fails to pay any of its obligations secured by a mortgage, deed of trust or other security interest on the Leased Property when due, Company may, at its option, pay such amount and deduct it from the amount owed to Landowner under this Lease.

d. Landowner expressly acknowledges and agrees that any contractual, statutory or common law lien rights in favor of any mortgage or deed of trust granted by Landowner subsequent to the date of this Lease are and shall be expressly made subordinate and inferior to Company's right, title and interest in this Lease, any sublease permitted hereunder and/or the Easements granted by this Lease and to any liens and security interests granted by Company in favor of any Solar Facility Mortgagee (as defined below). Landowner agrees to execute or cause its mortgagee to execute any further documentation that may be requested by Company or a Solar Facility Mortgagee of any of the foregoing to evidence such subordination.

9.10. Quiet Enjoyment. Landowner agrees that Company shall quietly and peaceably hold, possess and enjoy the Leased Property pursuant to the terms of this Lease, and for the Term of this Lease, and any extension thereof, without any hindrance or molestation caused by

Landowner or any party claiming by, through or under Landowner. Landowner shall defend title to the Leased Property, and the use and occupancy of the same, against the claims of all persons, except those claiming by or through Company. Landowner shall not enter into or modify any documents, including any declarations, easements, restrictions or other similar instruments, which may materially affect the Leased Property, or the rights and/or obligations of Company hereunder, without first obtaining the prior written consent of Company.

9.11. Landowner Consent. Except as otherwise expressly provided herein, where pursuant to the terms of this Lease or in connection with the administration of this Lease, the consent or approval of Landowner will be required, requested, or appropriate, Landowner covenants and agrees that its consent or approval will not be unreasonably or unduly withheld, delayed, or conditioned, and that Company will not be charged for such consent or approval. To the extent this Lease provides for the requirement of Landowner's consent, if within ten (10) days after Landowner's receipt of Company's written request for such consent, Landowner does not give notice of its reasons for not consenting to Company's request, Landowner shall conclusively be deemed to have given its consent. If within such ten (10) day period, Landowner gives notice of its reasons for not consenting to Company's request, then Landowner and Company shall promptly meet to discuss Landowner's comments and concerns, and Landowner and Company shall use their respective best efforts to address such comments and concerns in a reasonable manner. In the event a resolution is not reached, Company and Landowner shall be entitled to pursue all of their respective rights and remedies contained herein.

## 10. Solar Facility Financing.

10.1. Mortgage by Company. Company may, from time to time and at any time, without the consent of Landowner, hypothecate, mortgage, collaterally assign, pledge or alienate the Solar Facility Equipment, the Solar Facility, Company's leasehold, the Easements and/or the rights granted to Company under this Lease (collectively, the "**Solar Facility Estate**"). Each holder of any such instrument or lien, as to which Landowner has been notified of identity and address, is hereinafter referred to as a "**Solar Facility Mortgagee.**" Nothing herein shall be deemed to permit a Solar Facility Mortgagee to take title to, or otherwise encumber, Landowner's fee title to the Leased Property.

### 10.2. Rights.

a. A Solar Facility Mortgagee or its assigns may enforce its lien and acquire title to the Solar Facility Estate in any lawful way. Pending foreclosure of such lien, any Solar Facility Mortgagee may take possession of and operate the Solar Facility Estate under the terms hereof. Upon foreclosure of such lien by power of sale, judicial foreclosure or acquisition of the Solar Facility Estate by deed in lieu of foreclosure, a Solar Facility Mortgagee may, upon notice to Landowner, sell and assign the Solar Facility Estate. As long as there is a Solar Facility Mortgagee or a subtenant, tax credit investor and any other third party with an interest in the Solar Facility as to which Landowner has been notified of identity and address (each an "**Interested Party**"), neither the bankruptcy nor the insolvency of Company shall operate to terminate, nor permit Landowner to terminate, this Lease as long as all rent and other charges payable by Company continue to be paid in accordance with the terms of this Lease.

b. During the period that a Solar Facility Mortgagee or an Interested Party may be in possession of the Solar Facility Estate and/or during the pendency of any foreclosure proceedings instituted by a Solar Facility Mortgagee and an Interested Party, the Solar Facility Mortgagee or Interested Party shall pay or cause to be paid all rent and other charges payable by Company which have accrued and are unpaid during said period. Following the acquisition of the Solar Facility Estate by a Solar Facility Mortgagee, an Interested Party or their designee as set forth above, the Solar Facility Mortgagee, Interested Party or other person acquiring title to the Solar Facility Estate shall (i) cure all defaults by Company as to payment of rent, and (ii) assume and commence performance of all of Company's obligations under this Lease thereafter arising, whereon Landowner's right to terminate this Lease based upon the default in question shall be deemed waived.

10.3. Notice. When giving notice to Company of any default by Company under this Lease, Landowner shall also serve a copy of such notice upon (i) each Solar Facility Mortgagee, and (ii) each Interested Party. No such notice shall be effective against a Solar Facility Mortgagee or Interested Party unless and until served on such Solar Facility Mortgagee or Interested Party. If Company shall default in the performance of any of its obligations under this Lease following the giving of notice of such default to Company, then Landowner shall give each Solar Facility Mortgagee and Interested Party a second written notice of such default, specifying in detail the alleged default and required remedy.

10.4. Right to Cure.

a. Each Solar Facility Mortgagee and Interested Party shall have the right to cure any default by Company (i) within thirty (30) days after receipt of the second notice referenced above, if the default is in the payment of rent or is otherwise reasonably curable within such 30-day period, or (ii) within such longer period (not to exceed 90 days in total) as may reasonably be necessary to cure such default, if such default is not reasonably curable within 30 days, provided that the cure is commenced within such 30-day period and thereafter diligently continued to completion. Landowner shall accept such cure and performance as though the same had been done or performed by Company. Any Solar Facility Mortgagee and Interested Party shall have the right to do any act or thing required to be performed by Company or any assignee under this Lease, and such act or thing performed by a Solar Facility Mortgagee or Interested Party shall be effective to prevent a default under this Lease as if done by Company or the assignee itself. No Solar Facility Mortgagee or Interested Party shall have liability for any act or omission by Company under this Lease.

b. The time available to a Solar Facility Mortgagee or an Interested Party to cure any default by Company shall be extended by (i) such number of days as may be necessary for such Solar Facility Mortgagee or Interested Party to obtain a receiver, or to initiate and complete foreclosure proceedings, if possession of the Leased Property is necessary to cure such default, and (ii) the number of days of delay occasioned by bankruptcy stay or other judicial restriction against such remedies or occasioned by other circumstances beyond such Solar Facility Mortgagee's or Interested Party's reasonable control.



10.5. Modification of Lease. Upon the request of any Solar Facility Mortgagee, Landowner and Company shall amend this Lease to include any reasonable provision(s) requested by such Solar Facility Mortgagee to implement the protective provisions contained in this Lease for the benefit of such Solar Facility Mortgagee, or to allow such Solar Facility Mortgagee reasonable means to protect or preserve the Solar Facility Estate or the lien of its leasehold mortgage on the occurrence of a default under this Lease; *provided, however*, that Landowner shall not be required to amend this Lease in any way that would extend the Term, decrease the rent or otherwise in any material respect adversely affect any rights of Landowner.

10.6. New Lease to Solar Facility Mortgagee or Interested Party. If this Lease is terminated by Landowner on account of any default by Company, or terminates for any other reason prior to the originally scheduled expiration date hereof, then Landowner shall give prompt written notice thereof to each Solar Facility Mortgagee and Interested Party. Each Solar Facility Mortgagee and Interested Party, within sixty (60) days after receipt of written notice from Landowner, shall have the right to elect to enter into a new lease of the Leased Property as described below. Within thirty (30) days after receiving written request therefor from a Solar Facility Mortgagee or Interested Party, Landowner shall execute and deliver a new lease of the Leased Property to such Solar Facility Mortgagee, Interested Party, their nominee or to their purchaser, assignee or transferee, as the case may be, for the remainder of the Term of this Lease, containing the same covenants, agreements, terms, provisions and limitations as are contained in this Lease (other than those requirements which may have been satisfied or fulfilled by Company prior to the termination of this Lease), provided that the relevant Solar Facility Mortgagee or Interested Party shall pay to Landowner, simultaneously with the delivery of such new lease, all unpaid rent due under this Lease up to and including the date of the commencement of the term of such new lease.

10.7. Consent to Collateral Assignment. The Parties agree that Company may assign this Agreement, in whole or in part to a Solar Facility Mortgagee and/or Interested Party as collateral, and in connection with any such assignment, Landowner agrees to execute a consent to assignment in customary form and reasonably acceptable to the Solar Facility Mortgagee and/or Interested Party.

## **11. Assignment and Subletting.**

11.1. Internal Assignments by Company. Company and any assignee shall have the right, at any time, to assign or grant a sub-easement to all or part of the Solar Facility Estate without Landowner's consent, to a parent, subsidiary, or Affiliate of Company, to a company that has been merged or consolidated with Company, or to a company acquiring all or substantially all of Company's physical assets. In no event shall any assignment or grant of sub-easement by Company pursuant to this section exceed the Term of this Lease or waive Company's obligations to Landowner under this Lease Agreement without Landowner's written consent.

11.2. Outside Assignments by Company. Any proposed assignment of this Lease to parties un-related to Company or granting of sub-easement of the Leased Property to parties un-related to Company, shall require Landowner's written consent, which consent shall not be

unreasonably withheld, conditioned or delayed, provided however, that Landowner may withhold consent thereto if in the exercise of its reasonable judgement it determines that:

a. The financial condition of the proposed assignee or sub-easement holder is insufficient to meet the obligation being undertaken by the proposed assignee or sub-easement holder; or

b. The proposed use of the Leased Property is not permitted by this Lease.

11.3. By Landowner. Landowner may assign this Lease to any party in connection with any Transfer of the Leased Property by Landowner; *provided, however,* that any such Transfer shall be subject to this Lease.

**12. Default and Remedies.**

12.1. Company's Default.

a. Company shall be in default under this Lease if: (i) Company fails to perform any of Company's covenants under this Lease (other than the payment of rent or other charges) and such failure shall have continued for a period of thirty (30) days after written notice from Landowner (or if such failure is not reasonably capable of being cured within thirty (30) days, if Company shall not have commenced to cure the same within said 30-day period and/or shall not have thereafter diligently prosecuted the same to completion); or (ii) Company fails to pay rent or other charges herein required to be paid and such failure continues for a period of fifteen (15) business days after written notice from Landowner.

b. If Company shall be in default after the expiration of the cure period set forth above, then Landowner shall be entitled, at its election, either

[REDACTED]

c. If Landowner shall elect to

[REDACTED]

12.2. Landowner's Default. If Landowner shall at any time be in default of any of its covenants under this Lease and such default shall continue for a period of thirty (30) days after written notice to Landowner (or if such default is not reasonably capable of being cured within thirty (30) days, if Landowner has not commenced to cure the same within said 30-day period and/or has not diligently prosecuted the same to completion), then Company shall be entitled to exercise concurrently or successively any one or more of the following rights, in addition to all

other remedies provided in this Lease or available at law or in equity: (a) to bring suit for the collection of any amounts for which Landowner may be in default, or for the specific performance of any other covenant or agreement of Landowner, without bond and without terminating this Lease; and/or (b) to terminate this Lease upon thirty (30) days' written notice to Landowner, without waiving Company's rights to damages for Landowner's failure to perform its obligations hereunder.

### **13. Indemnity and Insurance**

13.1. Company Indemnity. Company shall indemnify, defend and hold harmless Landowner, its agents and employees (the "***Landowner Indemnitees***") of and from any claim, demand, lawsuit, or action of any kind for injury to or death of persons, including, but not limited to, employees of Company or Landowner, and damage or destruction of property, including, but not limited to, property of Company or Landowner, or other loss or damage incurred by Landowner, arising out of (a) negligent acts or omissions or willful misconduct of Company, its agents, officers, directors, employees or contractors; (b) the breach by Company of any of its obligations under this Lease, (c) any release or presence of hazardous substances, waste or materials to, at, on, in or from the Leased Property to the extent arising out of Company's use and occupancy thereof; (d) any occurrence on the Leased Property during the Commercial Term arising out of Company's use and occupancy thereof; or (e) the breach of any representation or warranty made by the Company on or after the Effective Date under this Lease. The obligation to indemnify shall extend to and encompass all costs incurred by Landowner and any Landowner Indemnitee in defending such claims, demands, lawsuits or actions, including, but not limited to, attorney, witness and expert witness fees, and any other litigation related expenses. Notwithstanding the foregoing, Company's obligations pursuant to this Section 13.1 shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the negligence or willful misconduct of Landowner, Landowner Indemnitees, or their respective contractors, successors or assigns, or to the acts of third parties (excepting those that arise out of Company's use and occupancy of the Leased Property), nor any manner of claim arising from or related to disqualification from or ineligibility for any governmental farm or conservation program. Company's liability to Landowner and Landowner Indemnitees under this Section 13.2 shall be limited to \$1,000,000; provided, however, such cap shall not apply to claims, demands, lawsuits or actions for liability to the extent attributable to the negligence or willful misconduct of Company, Company Indemnitees, or their respective contractors, successors or assigns, or the acts of third parties.

13.2. Landowner Indemnity. Landowner shall indemnify, defend and hold harmless Company, its officers, agents and employees (the "***Company Indemnitees***") of and from any claim, demand, lawsuit, or action of any kind for injury to or death of persons, including, but not limited to, employees of Company or Landowner, and damage or destruction of property, including, but not limited to, property of either Company or Landowner, or other loss or damage incurred by Company, arising out of (a) negligent acts or omissions or willful misconduct of Landowner, its agents, officers, directors, employees or contractors; (b) the breach by Landowner of any of its obligations under this Lease; (c) any release or presence of hazardous substances, waste or materials to, at, on, in or from the Leased Property to the extent not caused directly by

Company; (d) any occurrence on the Leased Property during the Commercial Term arising out of Landowner's use and occupancy thereof; or (e) the breach of any representation or warranty made by the Landowner on or after the Effective Date under this Lease. The obligation to indemnify shall extend to and encompass all reasonable costs incurred by Company and any Company Indemnitee in defending such claims, demands, lawsuits or actions, including, but not limited to, attorney, witness and expert witness fees, and any other litigation related expenses. Landowner's obligations pursuant to this Section 13.2 shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the negligence or willful misconduct of Company, Company Indemnitees, or their respective contractors, successors or assigns, or the acts of third parties. Landowner's liability to Company and Company Indemnitees under this Section 13.2 shall be limited to \$1,000,000; provided, however, such cap shall not apply to claims, demands, lawsuits or actions for liability to the extent attributable to the negligence or willful misconduct of Landowner, Landowner Indemnitees, or their respective contractors, successors or assigns, or the acts of third parties.

13.3 Company Insurance. During the Term, the Company will maintain or cause to be maintained at all times, with financially responsible insurers approved to do business in the state in which the Leased Property is located (i) commercial general liability insurance (which includes contractual liability coverage for written contracts) insuring against loss or liability caused by Company's occupation and use of the Leased Property under this Lease, in an amount not less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate, with a commercially reasonable deductible; (ii) automobile liability insurance insuring against loss or liability arising from the Company's use of all owned (if any), non-owned and hired automobiles that are used on the Leased Property, in an amount not less than \$1,000,000.00 combined single limit per occurrence, with a commercially reasonable deductible; (iii) if Company has any employees then Company shall maintain worker's compensation insurance in an amount not less than the statutory limits; and (iv) if Company has any employees, employer's liability insurance in an amount not less than \$1,000,000.00 with a commercially reasonable deductible; and (v) an Umbrella liability coverage at least as broad as and in excess of the underlying coverages required in items (i), (ii) and (iv) of this Section 13.3 and in an amount of not less than \$5,000,000.00 each occurrence and in the aggregate. Company shall cause Landowner to be named as an additional insured in such policies (but excluding the worker's compensation / Employer's Liability policy). Company's insurance shall be primary to and will not seek contribution from any other insurance available to Landowner as an additional insured under Company's insurance policies. All such policies shall expressly waive any right of subrogation on the part of the insurer against Landowner. Any insurance required under this Section 13.3 may be subject to reasonable deductibles as are usually carried by companies of similar financial condition operating similar properties. Company's commercial property insurance may be included under a blanket policy or policies covering the Solar Facility and other property and assets not located on the Leased Property. Company shall provide ten (10) days' written notice to Landowner prior to cancellation, termination, or change in coverage, scope or amount of any such policy. Prior to commencement of the term thereof and thereafter as requested by Landowner, Company shall provide Landowner with a true and correct copy of all such policies or a certificate of insurance reflecting the coverage required hereby, together with satisfactory evidence showing that all premiums have been paid.

**14. Tax Credits and Environmental Attributes.**

14.1. Tax Benefits. Company and its assigns shall be entitled to all depreciation, tax credits and other tax benefits arising out of the construction, ownership and operation of the Solar Facility and the production of solar energy therefrom. If under applicable law the holder of a lease becomes ineligible for any tax credit, benefit or incentive for alternative energy expenditure or production established by any local, state or federal government, then, at Company's option, Landowner and Company shall amend this Lease or replace it with a different instrument so as to convert (to the extent practicable) Company's interest in the Leased Property to a substantially similar interest that makes Company eligible for such tax credit, benefit or incentive; *provided, however*, that Landowner shall not be required to amend this Lease or replace it with a different instrument in any way that would extend the Term, decrease the rent or otherwise in any material respect adversely affect any rights of Landowner.

14.2. Environmental Benefits. Landowner acknowledges that Company or its assignee is the exclusive owner of electricity (kWh) generated by the Solar Facility and owner of all renewable energy credits and other Environmental Attributes and Environmental Incentives of the Solar Facility. "***Environmental Attributes***" means all environmental and other attributes that differentiate the Solar Facility or the energy output from the Solar Facility from energy generated by certain other generation units, fuels or resources, including those attributable to the avoidance of environmental impacts on air, soil or water, such as the emission of any oxides of nitrogen, sulfur or carbon or of mercury, or other gas or chemical, soot, particulate matter or other substances attributable to the Solar Facility or the compliance of the Solar Facility and/or the energy output of the Solar Facility with the law, rules and standards of any governmental authority, the United Nations Framework Convention on Climate Change (the "***UNFCCC***") or the Kyoto Protocol to the UNFCCC or crediting "early action" with a view thereto, the Clean Air Markets Division of the Environmental Protection Agency or successor administrator or any state or federal entity given jurisdiction over a program involving transferability of environmental attributes or the right of Company to report to any federal, state, or local agency, authority or other party that Company owns the environmental attributes associated with the energy output from the Solar Facility. "***Environmental Incentives***" include, but are not limited to, all credits (including tax credits), rebates, benefits, reductions, offsets, and allowances and entitlements of any kind, howsoever entitled, resulting from the Environmental Attributes. Landowner shall not make or publish any public statement or notice regarding any Environmental Incentive, any Environmental Attribute, the energy output or the Gross Revenues from the Solar Facility.

**15. Condemnation.** As used herein, the term "Taking" means the taking or damaging of the Leased Property, the Solar Facility Equipment, the rights granted to Company pursuant to this Lease, the Easements or any part thereof (including severance damage) by eminent domain, condemnation or for any public or quasi-public use. A Party who receives any notice of a Taking shall promptly give the other Party a copy of the notice, and each Party shall provide to the other Party copies of all subsequent notices or information received with respect to such Taking. If a Taking occurs, then the compensation payable therefor, whether pursuant to a judgment, by agreement or otherwise, including any damages and interest, shall be distributed proportionally to

Company and Landowner based on the values of their respective interests and rights in this Lease, the Leased Property and the uses thereof, taking into account:

a. with respect to Company, (i) the Taking of or injury to the rights granted to Company pursuant to this Lease, the Easements or the Solar Facility Equipment, (ii) any cost or loss that Company may sustain in the removal and/or relocation of the Solar Facility Equipment, or Company's chattels and fixtures, and (iii) Company's anticipated or lost profits, damages because of deterrent to Company's business and any special damages of Company; and

b. with respect to Landowner, (i) the Taking of the fee title, (ii) any cost or loss that Landowner may sustain in the removal of Landowner's chattels and fixtures from the Leased Property, and (iii) Landowner's anticipated or lost rent under the Lease.

## **16. Dispute Resolution.**

16.1. Dispute Resolution. The Parties agree to first attempt to settle any dispute arising out of or in connection with this Lease by good-faith negotiation. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Lease, such dispute shall be resolved by binding arbitration before a single arbitrator in Louisville, Kentucky under the rules and auspices of the American Arbitration Association. The cure periods for any alleged default(s) under this Lease disputed in good faith by Company shall be tolled until arbitration of the dispute is completed and the period for any appeal has lapsed.

16.2. Governing Law. This Lease shall be governed by and interpreted in accordance with the laws of the state in which the Leased Property is located.

16.3. Specific Performance. Landowner recognizes that monetary damages for any breach of this Lease may not be sufficient to compensate Company fully for such breach. Accordingly, without derogation of Company's other rights under this Lease, in the event of any default by Landowner hereunder, Company shall be entitled to specific performance hereof from any court of competent jurisdiction.

**LIMITATION ON LIABILITY/WAIVER OF JURY TRIAL. IN NO EVENT, SHALL ANY PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THIS LEASE. TO THE EXTENT ENFORCEABLE UNDER APPLICABLE LAW, EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS LEASE OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR COMPANY TO ENTER INTO THIS LEASE.**

16.4. Expenses. The non-prevailing Party shall pay the costs of any arbitration or other legal proceedings related to this Lease, including the fees and costs of the arbitrator and the legal fees and other out-of-pocket costs of the prevailing Party.

**17. Miscellaneous.**

17.1. Confidentiality. Landowner shall maintain in the strictest confidence, for the sole benefit of Company, all information pertaining to the terms and conditions of this Lease, including, without limitation, the financial terms of, and payments under, this Lease, Company's site design and product design, methods of operation, methods of construction, power production or availability of the Solar Facility Equipment, and the like, whether disclosed by Company or discovered by Landowner, unless such information is in the public domain by reason of prior publication. Landowner shall not use such information for its own benefit, publish or otherwise disclose it to others, or permit its use by others. Notwithstanding the foregoing, Landowner may disclose such information to Landowner's lenders, attorneys, accountants and other personal financial advisors solely for use in connection with their representation of Landowner regarding this Lease; any prospective purchaser of the Leased Property who has made a written offer to purchase or otherwise acquire the Leased Property that Landowner desires to accept; or pursuant to lawful process, subpoena or court order requiring such disclosure, provided Landowner in making such disclosure advises the party receiving the information of the confidentiality of the information. This provision shall survive the termination or expiration of this Lease.

17.2. Brokerage Commissions. Each of Landowner and Company warrants and represents to the other that there are no brokers' commissions, finders' fees or any other charges due to any broker, agent or other party in connection with the negotiation or execution of this Lease, or on behalf of either of them. Each Party shall indemnify, defend, protect and hold the other Party harmless from and against all damages, losses, costs, expenses (including reasonable attorneys' fees), liabilities and claims with respect to any claims made by any broker or finder based upon such broker's or finder's representation or alleged representation of such indemnifying Party.

17.3. Waiver of Nuisance. Landowner has been informed by Company and understands that the presence and operations of the improvements on the Leased Property and the Adjacent Property will potentially result in some nuisance to Landowner, such as higher noise levels than currently occur at the Property and the surrounding area and visual impact. Landowner hereby accepts such nuisance and waives any right that Landowner may have to object to such nuisance (and Landowner releases Company from any claims Landowner may have with respect to any such nuisance).

17.4. Successors and Assigns. This Lease shall burden the Leased Property and shall run with the land. All of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, assigns, subtenants, and licensees. Unless expressly provided herein, no third party, other than such heirs, legal representatives, successors, assigns, subtenants, and licensees will be entitled to enforce any or all of the provisions of this Lease or will have any rights hereunder whatsoever.

17.5. Memorandum of Lease. Landowner agrees to cooperate with Company to execute and record a memorandum of this Lease in form and substance satisfactory to Company and Landowner, or an amendment to any such memorandum of this Lease. In the event of any inconsistency between the terms and provisions of this Lease and those contained in such Memorandum of Lease, the terms and provisions of this Lease shall control. Landowner further consents to the recordation of the interest of any Solar Facility Mortgagee, Interested Party or assignee of Company's interest in this Lease.

17.6. Notices. All notices pursuant to this Lease shall be in writing and shall be sent only by the following methods: (i) personal delivery, (ii) mail (first-class, certified, return-receipt requested, postage prepaid), or (iii) delivery by an overnight courier service which keeps records of deliveries (such as, by way of example but not limitation, Federal Express and United Parcel Service). For purposes of giving notice hereunder, the respective addresses of the parties are, until changed as hereinafter provided, the following:

*To Landowner:*

Jeffrey A. Francis  
9592 Corydon-Geneva Rd.  
Henderson, KY 42420

*To Company:*

Henderson County Solar LLC  
Attn: Manager  
Three Radnor Corporate Center, Suite 300  
100 Matsonford Rd.  
Radnor, PA 19087

Any Party may change its address at any time by giving written notice of such change to the other Party in the manner provided herein. All notices shall be deemed given on the date of personal delivery or, if mailed by certified mail or overnight courier, on the delivery date or attempted delivery date shown on the return-receipt.

17.7. Entire Agreement/Amendments. This Lease and the attached Exhibits constitute the entire agreement between Landowner and Company regarding its subject matter, and replace and supersede any prior agreements and understandings between the Parties relating thereto whether written, verbal or otherwise. This Lease shall not be modified or amended except in a writing signed by both Parties or their lawful successors in interest.

17.8. Interpretation. The Parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either Party shall not be employed in the interpretation of this Lease.

17.9. Partial Invalidity. Should any provision of this Lease be held, in a final and unappealable decision by a court of competent jurisdiction, to be invalid, void or unenforceable,



the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding. Notwithstanding any other provision of this Lease, in no event shall the Term be for longer periods than permitted by applicable law.

17.10. Time of Essence. Time is of the essence with regard to the terms and conditions of this Lease.

17.11. Waiver. No provision of the Lease will be deemed waived by either party unless expressly waived in writing signed by the waiving party. No waiver will be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this Lease will be deemed a waiver of such provision with respect to any subsequent matter relating to such provision.

17.12. Survival. Whether or not specifically noted within any section or provision of this Lease, any provision of this Lease which must survive termination of this Lease in order to be effective will so survive such termination.

17.13 Counterparts. This Lease may be executed in counterparts, which taken together shall constitute one agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.

\* \* \* \* \*

## EXHIBIT B

### DESCRIPTION OF LEASED PROPERTY

Landowner owns the real property located at 893 Lover's Lane, Henderson, KY 42420 in Henderson County, more specifically described by Henderson County as that portion of Parcel 46-19.2 comprising approximately 93.99 acres ("**Landowner's Property**").

Landowner desires to lease to Company all of Landowner's Property, as outlined in white in the drawing below, comprising approximately 93.99 acres (the "**Leased Property**").



**EXHIBIT C**  
**FORM W-9**

Form <b>W-9</b> (Rev. October 2018) Department of the Treasury Internal Revenue Service	<b>Request for Taxpayer                  Identification Number and Certification</b> ▶ Go to <a href="http://www.irs.gov/FormW9">www.irs.gov/FormW9</a> for instructions and the latest information.	Give Form to the requester. Do not send to the IRS.
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Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

<b>Social security number</b>										
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	-		-							
<b>OR</b>										
<b>Employer identification number</b>										
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**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*