

Kentucky

SOLAR LEASE AND EASEMENT AGREEMENT

1. **Parties.** This Solar Lease and Easement Agreement ("**Agreement**") is made and entered as of the 10th day of January, 2022 ("**Effective Date**"), by and between Phillip D. Branson and Robin R. Branson, husband and wife ("**Owner**") and Sebree Solar, LLC, a Delaware limited liability company ("**Operator**"), which are sometimes individually referred to as a "**Party**" and collectively as the "**Parties**".

2. **Project.** This Agreement relates to the solar-powered electrical power generation and transmission project known as the "Sebree Solar Energy Center" to be located in Henderson County, Kentucky ("**Project**"), which may be wholly or partially located on the Owner's property legally described on the attached **Exhibit A** to this Agreement ("**Owner's Property**"). Upon Operator's exercise of the Option (as defined below), the Project shall include (i) the Lease of Owner's Property described in Section 4, (ii) the Easements referenced in Section 5 that are located on the Owner's Property, and (iii) the Improvements referenced in Section 8 to be constructed on Owner's Property. The Lease, Easements and Improvements are sometimes collectively referred to as the "**Operator Property**".

3. **Option.** Owner grants to Operator an exclusive option ("**Option**") to acquire the Lease and Easements referenced in Sections 4 and 5 in accordance with the following terms and conditions. Operator shall be entitled to acquire the Lease and the Easements in their entirety or in part, as Operator deems appropriate.

3.2 **Option Payment.** As consideration for the granting of the Option, Operator agrees to pay Owner the Option Payment set forth in **Exhibit D**.

3.3 **Use of Owner's Property.** During the Option Term, Operator and its employees, agents and contractors shall have a right to enter upon the Owner's Property and the right of ingress and egress over and across the Owner's Property for the purposes of (i) surveying the Owner's Property; (ii) performing such other tests and studies as Operator may desire in connection with the Option, including, without limitation, environmental, avian and cultural resource assessments, and geotechnical, foundation and soil tests, provided that such activities do not unreasonably interfere with Owner's use of the Owner's Property; and (iii) installing, maintaining, operating, inspecting and removing one or more weather related instruments ("**Weather Instrument**") and fencing of said Weather Instrument and including the performance of all tests and studies associated therewith. Owner shall not permit any other individual or entity except Operator or its affiliates to install a Weather Instrument on Owner's Property.

3.4 **Right to Grant Option.** Owner warrants and represents to Operator that (i) the statements in Section 9 concerning Owner's title to the Owner's Property are true and correct; (ii) Owner has the authority to grant this Option to Operator without the consent or approval of any other party; and (iii) there are no other existing options, rights of first refusal, contracts to

purchase, leases or mortgages that would prevent Operator from exercising its rights with respect to the Option.

3.5 **Exercise of Option.** Operator may exercise the Option by giving written notice to Owner ("**Option Notice**") at any time during the Option Term. Operator shall specify in the Option Notice the Commencement Date referenced in Section 6.1.1. On the Commencement Date, the Lease and Easements referenced in Sections 4 and 5 shall automatically become effective, and the Parties shall be subject to all of the terms and conditions of this Agreement with respect to such Lease and Easements and all rights and obligations relating thereto.

3.6 **Termination of Option.** If Operator fails to exercise the Option within the Option Term, the Option and the rights of Operator as the optionee shall automatically terminate.

4. **Lease.** Upon exercise of the Option by Operator, Owner leases to Operator, and Operator leases from Owner, Owner's Property for the Lease and Easement Term (defined in Section 6.1) in accordance with the terms and conditions of this Agreement ("**Lease**"), which Lease grants Operator and its agents, contractors, and employees the right to use the Owner's Property for the following permitted uses:

4.1 **Construction Right.** Operator leases Owner's Property for the purpose of constructing, operating, maintaining, repairing, replacing, and removing all or any part or component of the Improvements whether located on Owner's Property. Operator may exercise its right to use all or any part of the Owner's Property as and when Operator deems it necessary or advisable to do so to perform the activities for which this right is granted, including, without limitation, staging areas and parking for Operator's employees.

4.2 **Access Right.** Operator leases Owner's Property for unobstructed vehicular and pedestrian access and ingress to and egress from the Improvements, Owner's Property and any public roadways, and to construct, maintain, and utilize Roadway Improvements on the Owner's Property. Owner shall not permit others to obstruct or damage the roads or Roadway Improvements located on the Owner's Property or in any other way interfere with Operator's rights under this right. Operator shall repair any damage done to Roadway Improvements which result from use by Operator, its agents, servants or employees. Such roads shall be maintained in the condition necessary for use by Operator's equipment, and with regard to existing roads, shall be maintained in at least the condition that existed prior to Operator's use.

4.3 **Solar Panels Right.** Operator leases Owner's Property for Operator to construct, operate, replace, relocate, remove, and maintain Solar Panels and the appurtenant Collection Facilities, together with associated roads and parking areas on Owner's Property.

4.4 **Collection Facilities Right.** Operator leases Owner's Property for Operator to construct, operate, maintain, replace, relocate or remove Collection Facilities on and under the Owner's Property.

4.5 **Substation Right.** Operator leases Owner's Property for Operator to construct, operate, maintain, replace, relocate or remove one or more Substations on Owner's Property.

4.6 **Telecommunication Right.** Operator leases Owner's Property for Operator to construct, operate, maintain, replace, relocate or remove Telecommunication Facilities on and under the Owner's Property.

4.7 **Weather Instrument Right.** Operator leases Owner's Property in order to construct, operate, replace, relocate, remove, and maintain a Weather Instrument and the appurtenant Collection Facilities on Owner's Property.

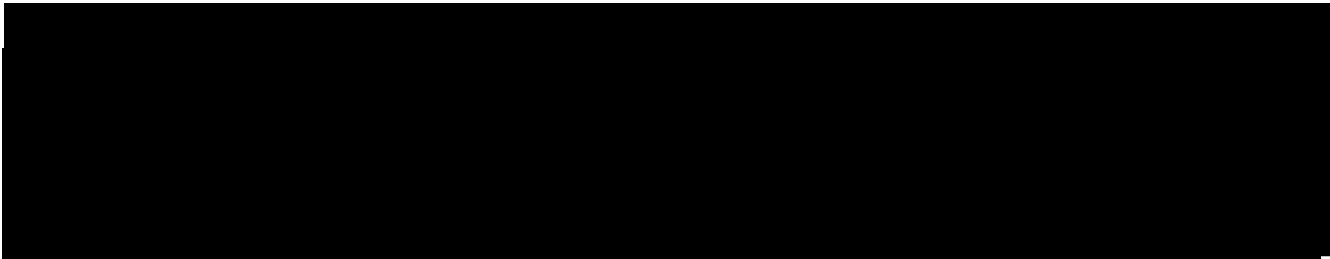
4.8 **Battery Facilities Right.** Operator leases Owner's Property in order to construct, operate, replace, relocate, remove, and maintain one or more Battery Facilities on Owner's Property.

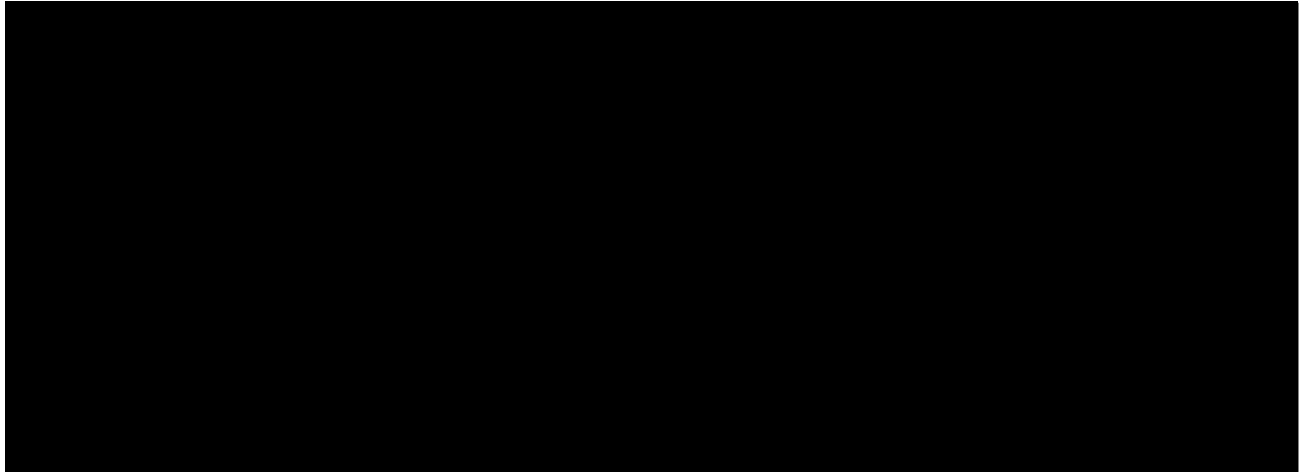
5. **Grant of Easements.** Upon the exercise of the Option by Operator, Owner grants to Operator, and Operator accepts from Owner, for the Lease and Easement Term referenced in Section 6.1, the following easements over and across the Owner's Property in accordance with the terms and conditions of this Agreement. The following easements are for the benefit of Operator and Operator's agents, contractors and employees and located on the Owner's Property and are collectively referred to as the "**Easements**".

5.1 **Sun Non-Obstruction Easement.** Owner grants Operator an irrevocable, exclusive easement for the right and privilege to use, maintain and capture the free and unobstructed sunlight over and across the Owner's Property. Owner shall not engage in any activity on Owner's Property or any other neighboring property owned by Owner that might interfere with the sunlight direction over any portion of Owner's Property; cause a decrease in the output or efficiency of any Solar Panel or Weather Instrument; or otherwise interfere with Operator's operation of the Project or exercise of any rights granted in this Agreement (collectively "**Interference**"). This grant of the easement expressly includes the right of Operator to enforce Operator's rights, including the physical removal of trees or structures (except existing trees and structures) causing Interference to the Project contemplated by Operator. Operator shall notify Owner before making any such removals.

5.2 **Effects Easement.** Owner grants to Operator an easement over Owner's Property for visual, view, light, flicker, noise, shadow, vibration, electromagnetic, electrical and radio frequency interference, and any other effects attributable to the Project located on the Owner's Property.

6. **Term.** The term of this Agreement ("**Term**") includes the Option Term referenced in Section 3.1, the Initial Lease and Easement Term as described in Section 6.1.1 and the Extended Lease and Easement Term as described in Section 6.1.2 (together, the Initial Lease and Easement Term and the Extended Lease and Easement Term, if applicable, is defined as the "**Lease and Easement Term**").





6.1.3 **Delays During Lease and Easement Term.** At Operator's option, the Term may be extended for a period of time equal to the period of time during which operation of the Project is delayed or suspended because of the occurrence of a Regulatory Suspension or Force Majeure, which are defined as follows:

(i) "**Regulatory Suspension**" shall mean the enactment or application of any law, order, rule, or regulation of the Kentucky Public Service Commission, Federal Energy Regulatory Commission, or other local, state, or federal government authority having jurisdiction over the Project or Operator, or the failure of any such governmental authority to issue an approval or permit pursuant to any such law, order, rule, or regulation, which results in the delay, interruption, or suspension of the production, sale or transmission of electricity from the Solar Panels; and

(ii) "**Force Majeure**" shall mean causes beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure, including but not limited to acts of God, labor unrest (including, but not limited to, slowdowns, picketing, boycotts or strikes), flood, earthquake, storm, fire, lightning, explosion, power failure or power surge, vandalism, theft, the cutting of power, transmission or other lines, wires or cables to the Project by persons other than Operator's employees or contractors, epidemic, war, revolution, riot, civil disturbance, sabotage, change in law or applicable regulation subsequent to the Commencement Date and action or inaction by any federal, state or local legislative, executive, administrative judicial agency or body which in any of the foregoing cases, by exercise of due foresight such Party could not reasonably have expected to avoid, and which, by the exercise of due diligence, it is unable to overcome.

The Parties shall be excused from performing their respective obligations under this Agreement and shall not be liable in damages or otherwise if and to the extent that they are unable to so perform or are prevented from performing by a Force Majeure, provided that: (i) the non-performing Party, as promptly as practicable after the occurrence of the Force Majeure, but in no event later than thirty (30) days thereafter, gives the other Party written notice describing the particulars of the occurrence; (ii) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure; (iii) the non-performing Party uses good faith and commercially reasonable efforts to remedy its inability to perform; and (iv) as soon as the non-performing Party is able to resume performance of its obligations excused as a

result of the occurrence, each Party shall give prompt written notification thereof to the other Party.

6.2 **Termination by Operator.** Provided Operator is not in default under any term of this Agreement, Operator, at its option, shall have the right to terminate this Agreement at any time during the Term of the Agreement, as to all or any part of the Operator Property. Termination shall be effective thirty (30) days after written notice of such termination to Owner. If Operator's notice is a full termination of the Operator Property, the Parties shall be relieved of all further duties and obligations under this Agreement, other than (i) the payment of any accrued and unpaid obligations owed by either Party as of the date of termination; (ii) the removal of the Improvements by Operator pursuant to Section 8.11; and (iii) any other obligations and liabilities that are expressly stated in this Agreement to survive such termination. Upon any such partial termination by Operator, the Parties shall be relieved of all further duties and obligations under this Agreement with respect to the portion thereof terminated by Operator, subject to the obligations and liabilities referenced in items (i) through (iii) above that shall continue to be applicable to the terminated portion of this Agreement. The Parties agree to execute an amendment to this Agreement evidencing such partial termination.

7. **Payments.** If Operator exercises the Option referenced in Section 3, Operator agrees to pay Owner the amounts set forth in **Exhibit D** as consideration for the Lease, Easements and Operator's other rights and interests in the Owner's Property.

8. **Improvements.** Operator shall have the right, at its sole cost and expense, to construct, install, maintain, use, operate, repair, replace, relocate and remove all facilities, structures, equipment, machinery, wires, conduit, cables, poles, materials and property of every kind and character required for the construction and operation of portions of the Project on the Owner's Property, including, but not limited to, the Solar Panels, Collection Facilities, Substations, Telecommunication Facilities, Weather Instruments, Roadway Improvements and Battery Facilities referenced in Sections 8.1 through 8.7 (collectively, the "**Improvements**").

8.1 "**Solar Panels**" shall mean any photovoltaic energy system designed for the generation of electrical power from the collection of sunlight, including without limitation, the photovoltaic panels, foundations, support structures, braces and related equipment.

8.2 "**Collection Facilities**" shall mean all Improvements whose purpose is to deliver electrical power generated by the Solar Panels to an electrical power grid or other system, including without limitation transformers, overhead and underground electrical collection lines, telecommunication lines, splice boxes and interconnection facilities.

8.3 "**Substations**" shall mean electrical lines, meters, monitoring and control equipment, switches, transformers, all structures, equipment, enclosures, fencing, security devices, and other electrical and communications equipment necessary to condition and increase the voltage of electricity generated by the Project to make it suitable for transmission on, and to deliver it to, Collection Facilities connected to an electric power grid or other system.

8.4 "**Telecommunication Facilities**" shall mean all Improvements whose purpose is to provide telecommunication services solely relating to the Project or any of Operator's solar

powered projects, including telephone, closed-circuit television, microwave, internet, computer data and other telecommunication services.

8.5 "**Weather Instrument**" shall mean instruments used primarily to gather and transmit sunlight and meteorological data relating to the Project, and includes the instrument's foundations, guy wires, sunlight and meteorological data acquisition equipment, power source, and any required data and electrical transmission lines.

8.6 "**Roadway Improvements**" shall mean all improvements that may be necessary to construct, maintain and repair any new and existing roadways and other means of ingress and egress over, across and along the Owner's Property, including paving or surfacing of the roadways with asphalt, gravel or other roadway materials, installation of road signs and the construction and installation of culverts, bridges, drainage ditches, gates, cattle guards and similar structures and facilities.

8.7 "**Battery Facilities**" shall mean a type of equipment that can be given a new charge by passing an electric current through it designed for the storage of electrical power including without limitation, batteries and other devices for storage of electrical energy, foundations, support structures, braces and related equipment.

8.8 "**Ownership of Improvements**. Except as otherwise provided in Section 11.7, all Improvements shall at all times remain the property of Operator, and Owner shall have no right, title or interest therein. All Improvements constructed or placed on the Owner's Property by Operator during the Term of this Agreement may be repaired, replaced, relocated, removed, added to or expanded upon by Operator at any time during the Term of this Agreement. Owner expressly waives any statutory lien or common law liens on the Improvements to which Owner might be entitled.

8.9 "**Construction Liens**. Operator shall not permit any liens arising out of Operator's use of the Operator Property under this Agreement to be filed against the Owner's Property. Operator shall, within sixty (60) days after it receives notice of the lien, provide a bond or other security that Owner may reasonably request, or remove such lien from the Owner's Property in the manner provided by applicable law.

8.10 "**Location of Improvements**. The acreage required from the Owner's Property for the Improvements for which the Lease and Easements are being granted cannot be determined until the completion of Operator's inspection, testing, study and surveying of the Owner's Property during the Option Term. Operator shall not install any Improvements in the excluded areas of Owner's Property depicted in **Exhibit B-1** without obtaining the prior consent of Owner. Along with the Option Notice, Operator shall deliver to Owner a proposed plan of development showing the contemplated locations of the Improvements and a preliminary calculation of the acreage as determined by the area bounded by a perimeter fence required for the Project, , and depicting any areas outside the perimeter fence that will be used as vegetative buffer which shall be considered a part of the Owner's Property that is subject to the Lease and Easements, and, at Operator's discretion, any additional setback or similar areas required for permitting that may be included as part of the Owner's Property subject to the Lease and Easement, and identifying any such areas that are to be considered a part of the Owner's Property that is subject to the Lease

and Easements, which shall serve as the **Exhibit B-2** to this Agreement. During the final development and construction of the Project, such locations may need to be amended. Following construction of the Project, Operator shall provide Owner an "as-built" survey of all Improvements on Owner's Property and the final calculation of the acreage as determined by the area bounded by a perimeter fence and any additional areas identified by Operator as required for the Project, which shall serve as **Exhibit C** to this Agreement. Further, following construction, the Improvements may need to be relocated or rerouted by Operator, which Operator may perform, at any time during the Term of this Agreement, so long as the nature and extent of any such relocated or rerouted Improvements are not materially different and impose no materially greater burden on the Owner's Property than the original locations or routes, and so long as Operator takes commercially reasonable efforts to minimize disruption or inconvenience to Owner.

8.11 Removal of Improvements. Upon full or partial termination of any of the Lease Rights or Easements, Operator shall remove all Improvements and restore the area formerly occupied by the Improvements to substantially the same physical condition that existed immediately before the construction of the Improvements (the "**Removal Obligations**"). At Owner's request, all or any part of the Roadway Improvements may be left for use by Owner. If a governmental authority does not require a performance bond or security for removal of the Improvements, then upon the earlier to occur of: (i) the termination of this Agreement; or (ii) on the twentieth (20th) anniversary of the commercial operations date of the Project, Operator shall obtain and deliver to Owner a bond in form and substance reasonably satisfactory to Owner securing Operator's Removal Obligations (the "**Removal Bond**"). The Removal Bond shall be equal to the estimated amount, if any (the "**Net Removal Costs**"), by which the cost of removing the Improvements on Owner's Property exceeds the salvage value less any outstanding debt on such Improvements, which Net Removal Costs shall be determined as set forth below. Operator shall not be required to deliver such Removal Bond to Owner if Operator has delivered such a bond in connection with the permitting of Owner's Property or any other portion of the Improvements for the Project. Once in place, Operator shall keep such bond, or a like replacement, in force throughout the remainder of the Term. The Net Removal Costs shall be determined by the Parties hereto acting in good faith. If the Parties cannot agree upon the Net Removal Costs within sixty (60) days of their first attempt to do so, then the Net Removal Costs shall be determined by an independent engineer mutually selected by the Parties. If the Parties cannot agree upon such independent engineer within the next thirty (30) days, then by an independent engineer appointed by a District Judge of Henderson County, Kentucky; and the decision of such an independent engineer (however selected) as to the Net Removal Costs shall be conclusive as between and binding upon, the Parties. If an independent engineer is selected, then the Parties hereto shall equally share all of the costs associated with the independent engineer's determination of the Net Removal Cost. If the Removal Bond is unavailable or an alternate form of security is more economical or desirable, then Operator may substitute an alternate form of security, such as a letter of credit, other form of bond, or guarantee that provides substantially equivalent security as the Removal Bond

9. **Ownership and Title Matters.** Owner warrants and represents to Operator, both as of the Effective Date, and as of the Commencement Date as follows:

9.1 **Authority**. Owner represents and warrants that it is the holder of fee simple title and is the sole owner of the Owner's Property and has the unrestricted right and authority to sign this Agreement and to grant Operator the Lease and Easements and other rights granted in this Agreement. When signed by both Parties, this Agreement constitutes a valid and binding agreement enforceable against Owner in accordance with its terms.

9.2 **Other Agreements**. The Owner's Property is not subject to any other agreements, options, rights of first refusal or other prior right of any party to purchase, lease or acquire easements in the Owner's Property, or create any prior claim or right that would preclude or interfere with Operator's rights and interests under this Agreement and the Lease and Easements.

9.3 **Minerals**. Except as disclosed by Owner to Operator at the time of the execution of this Agreement by Owner, Owner owns all of the oil, gas and other minerals, and all rights thereto as on or under the Owner's Property.

9.4 **Owner Mortgage**. Except as disclosed by Owner to Operator at the time of the execution of this Agreement by Owner, there are no mortgages encumbering the Owner's Property ("**Owner Mortgage**").

9.5 **Notice and Opportunity to Cure**. If there is an Owner Mortgage encumbering Owner's Property and Owner receives from the holder thereof any notice that payments are overdue, Owner shall notify Operator and each Operator Mortgagee (as defined at Section 13.1) by sending a copy of such overdue payment notice to Operator by the earlier of (i) five (5) days after receipt, or (ii) three (3) business days prior to the date by which a default under or in respect of such Owner Mortgage could occur. If Operator or any Operator Mortgagee determines that it would be in Operator's interest to make such payments to Owner Mortgagee on Owner's behalf, whether as a result of receiving such notice or otherwise, Operator shall have the right to make such payments and to credit the payments so made against the Annual Installment Payment next due under the Agreement.

9.6 **Subordination, Non-Disturbance & Attornment Agreement**. If there is an Owner Mortgage encumbering Owner's Property, Owner shall cooperate with Operator to obtain a Subordination, Non-Disturbance and Attornment Agreement ("**SNDA**") in the form prepared and provided by Operator, from each Owner Mortgagee, pursuant to which such Owner Mortgagee agrees, among other things, not to disturb Operator's possession and use of the Owner's Property. Owner shall not incur any loss in income, expense, obligation or liability with regard to the SNDA. Operator shall, at its sole cost and expense, record each such SNDA in the Office of the County Clerk in which Owner's Property is located. If Owner fails to deliver a SNDA from each Owner Mortgagee, Operator may, at its sole option, either (i) terminate this Agreement immediately upon written notice to Owner, or (ii) take such action as Operator deems reasonably necessary to effect the rights granted to Operator hereunder, and off-set all amounts expended in such efforts against the Annual Installment Payments and any other amounts due hereunder or in respect hereof.

10. **Representations and Warranties of Owner**. Owner hereby makes the following further representations and warranties both as of the Effective Date, and as of the Commencement Date:

10.1 **Physical Condition.** Owner has no knowledge of any existing physical conditions of the Owner's Property which would prevent, significantly restrict or make more expensive Operator's development of the Owner's Property for the purposes specified in this Agreement, or which could, with the passage of time, or the giving of notice, constitute a violation of any currently applicable governmental law, ordinance, order, rule or regulation.

10.2 **Legal Restrictions.** Owner has no knowledge of any law, regulation, ordinance or order of any local, state or federal governmental authority which would prohibit or significantly restrict Operator's development of the Owner's Property pursuant to this Agreement. This Agreement does not violate any contract, agreement, instrument, judgment or order to which Owner is a party or which affects the Owner's Property. To the best of Owner's knowledge, the Owner's Property is currently in full and complete compliance with all governmental laws, ordinances, orders, rules and regulations applicable to the Owner's Property.

10.3 **No Litigation.** No litigation is pending and, to the best of Owner's knowledge, no litigation or administrative actions are proposed, threatened or anticipated with respect to any matter affecting the Owner's Property. If Owner learns of any litigation or administrative action proposed, threatened or instituted with respect to the Owner's Property, Owner shall give Operator notice within thirty (30) days thereof.

10.4 **Survival.** The representations and warranties set forth in this Section 10 shall survive the execution and delivery hereof.

11. **Use, Operation and Maintenance.**

11.1 **Exclusive Use by Operator.** Operator shall have the exclusive right (i) to use and possess the Owner Property in connection with the Project and other similar solar-powered electrical power generation projects; (ii) to investigate, inspect, survey, and conduct tests of the Owner's Property, including, but not limited to, meteorological, environmental, archeological and geotechnical tests and studies; (iii) to use and convert all of the sunlight resources on the Owner's Property; and (iv) to undertake such other activities on the Owner's Property that may be related to the Project, including, without limitation, the storage of Solar Panels, materials and equipment during the installation and construction of the Improvements; development and operation of communications systems; and site tours of the Project for visitors and other interested parties.

11.2 **No Required Installation or Operation.** Nothing in this Agreement shall be interpreted as imposing on Operator any obligation to install Solar Panels or other Improvements on the Owner's Property, or to operate the Project on the Owner's Property. Operator shall have the sole discretion to determine if and when any Solar Panels and other Improvements may be constructed on Owner's Property, and if and when to commence the operation of the Project on the Owner's Property.

11.3 **Permits and Approvals.** Operator shall be responsible, at its sole cost and expense, for obtaining any governmental permits and approvals necessary for the construction and operation of the Project and the construction and operation of the Improvements. Owner shall cooperate with Operator as necessary to obtain any governmental or utility approvals or

permits, including, without limitation, signing any applications for such approvals, provided that Owner shall not incur any loss in income, expense, obligation or liability with respect to Operator obtaining such permits or approvals.

11.4 **Compliance with Laws.** Operator shall comply in all material respects with valid laws applicable to the Owner's Property and the Operator Property. Operator shall have the right, in its sole discretion and at its sole expense, in Operator's name to contest the validity or applicability to the Owner's Property and the Operator Property of any law, ordinance, statute, order, regulation, property assessment or the like made by any governmental agency or entity. Operator shall control any such contest and Owner shall cooperate with Operator in every reasonable way in such contest, provided that Owner shall incur no expense, obligation or liability with regard to such contest.

11.5 **Care and Appearance.** Operator, in its exercise of the lease, easement and other rights granted hereunder shall, at all times, maintain the Owner's Property and the Improvements in a reasonably neat, clean and presentable condition. Operator shall not willfully or negligently damage or destroy the Owner's Property and shall keep the Owner's Property clean and free of debris created by Operator, its contractors, or others brought on to the Owner's Property by Operator. Operator shall not use the Owner's Property for storage, except for materials, construction equipment and vehicles directly associated with construction or maintenance of the Improvements on the Owner's Property or adjacent properties that are part of the Project.

11.6 **Fences and Gates.** At Owner's request, Operator shall repair or replace any fences, gates or cattle guards damaged or removed in connection with Operator's activities on the Owner's Property. Fences removed from the Owner's Property, if replaced, shall be re-built by Operator at its expense in mutually agreeable locations. All fence repair and construction shall be substantially similar to the construction of existing fences and cattle guards on Owner's Property. Any gates opened for access to Owner's Property by either Party shall be closed immediately after passing through so that livestock may not pass through. Once completed, all replacement fences, gates and cattle guards shall be owned and maintained by Owner. Upon abandonment or termination of the rights granted to Operator in this Agreement, any fences, gates and cattle guards installed by Operator shall remain and become the property of Owner. To minimize the need for temporary fencing, Owner will cooperate with Operator to avoid pasturing animals on or near the Improvements during periods of construction, maintenance or removal activity by Operator. Owner will discuss with Operator what temporary fencing is necessary during the periods of construction, maintenance or removal activity by Operator.

11.7 **Roadway Maintenance and Repairs.** Operator agrees to maintain and repair all Roadway Improvements located on the Operator Property; provided, however, Owner shall reimburse Operator for any costs and expenses incurred by Operator to repair any damage or perform any special maintenance of the Roadway Improvements caused by Owner or any person using the Roadway Improvements with Owner's permission, other than Operator.

12. **Taxes.**

12.1 **Owner's Taxes.** Owner covenants and agrees to pay prior to delinquency all real and personal property and other taxes, general and special assessments, and other charges of

every description ("**Taxes**") levied or assessed against the Owner's Property and all improvements thereon by governmental authorities, other than Operator's Taxes referenced in Section 12.2 (Taxes, excepting Operator's Taxes, are hereinafter referred to as "**Owner's Taxes**").

12.3 **Failure to Pay.** In the event either Party fails to pay their share of Taxes prior to delinquency, the other Party shall have the right to pay such Taxes and any accrued penalties or interest, which payments shall increase or be offset against other Payments due under this Agreement.

12.4 **Operator's Right to Contest.** Operator may contest the legal validity or amount of any Operator's Taxes for which it is responsible under this Agreement, and may institute such proceedings as it considers necessary, provided that Operator shall bear all expenses in pursuing such contest or proceeding. With respect to any Taxes which may constitute a lien on the Owner's Property, Operator shall promptly pay such Taxes unless the proceeding in which it contests such Taxes shall operate to prevent or stay the collection of the Taxes so contested or unless Operator removes any such lien by bonding or otherwise. Owner agrees to render to Operator all reasonable assistance in contesting the validity or amount of any such Taxes, with the exception of Taxes levied by Owner, including joining in the signing of any reasonable protests or pleading which Operator may deem advisable to file; provided, however, that Operator shall reimburse Owner for its reasonable out-of-pocket expenses, including reasonable attorneys' fees incurred in connection with providing such assistance.

13. **Mortgage of Operator Property.**

13.1 **Right to Mortgage.** Operator may, upon written notice to Owner, but without requiring Owner's consent or approval, mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Agreement and the Operator Property. These various security interests in all or a part of this Agreement and the Operator Property are collectively referred to as an "**Operator Mortgage**" and holder of such security

interest, an "**Operator Mortgagee**". Any Operator Mortgagee shall use the Operator Property only for the uses permitted under this Agreement. Whenever Operator has granted a security interest under this Section 13, it will give Owner notice of the Operator Mortgage (including the name and address of the Operator Mortgagee for notice purposes) to Owner within thirty (30) days; provided that failure to give this notice shall not constitute a default under this Agreement, but rather shall only have the effect of not binding Owner to provide such Operator Mortgage notice until the Operator and its address is given to Owner.

13.2 **Notice of Default and Opportunity to Cure.** As a precondition to exercising any rights or remedies related to any alleged default by Operator under this Agreement, Owner shall give written notice of the default to each Operator Mortgagee at the same time it delivers notice of default to Operator, specifying in detail the alleged event of default and the required remedy. Each Operator Mortgagee or its designee shall have the right, but not the obligation, to cure any default as Operator, and/or the right, but not the obligation, to remove any Improvements or other property owned by Operator or such Operator Mortgagee located on the Owner's Property to the same extent as Operator. The cure period for any Operator Mortgagee shall be the later of (i) the end of the Operator cure period under Section 18; (ii) thirty (30) days after such Operator Mortgagee's receipt of the default notice; or (iii) if applicable, the extended cure period provided for in Section 13.3. Failure by Owner to give an Operator Mortgagee notice of default shall not diminish Owner's rights against Operator, but shall preserve all rights of the Operator Mortgagee or its designee to cure any default and to remove any Improvements or other property of Operator or the Operator Mortgagee located on the Owner's Property.

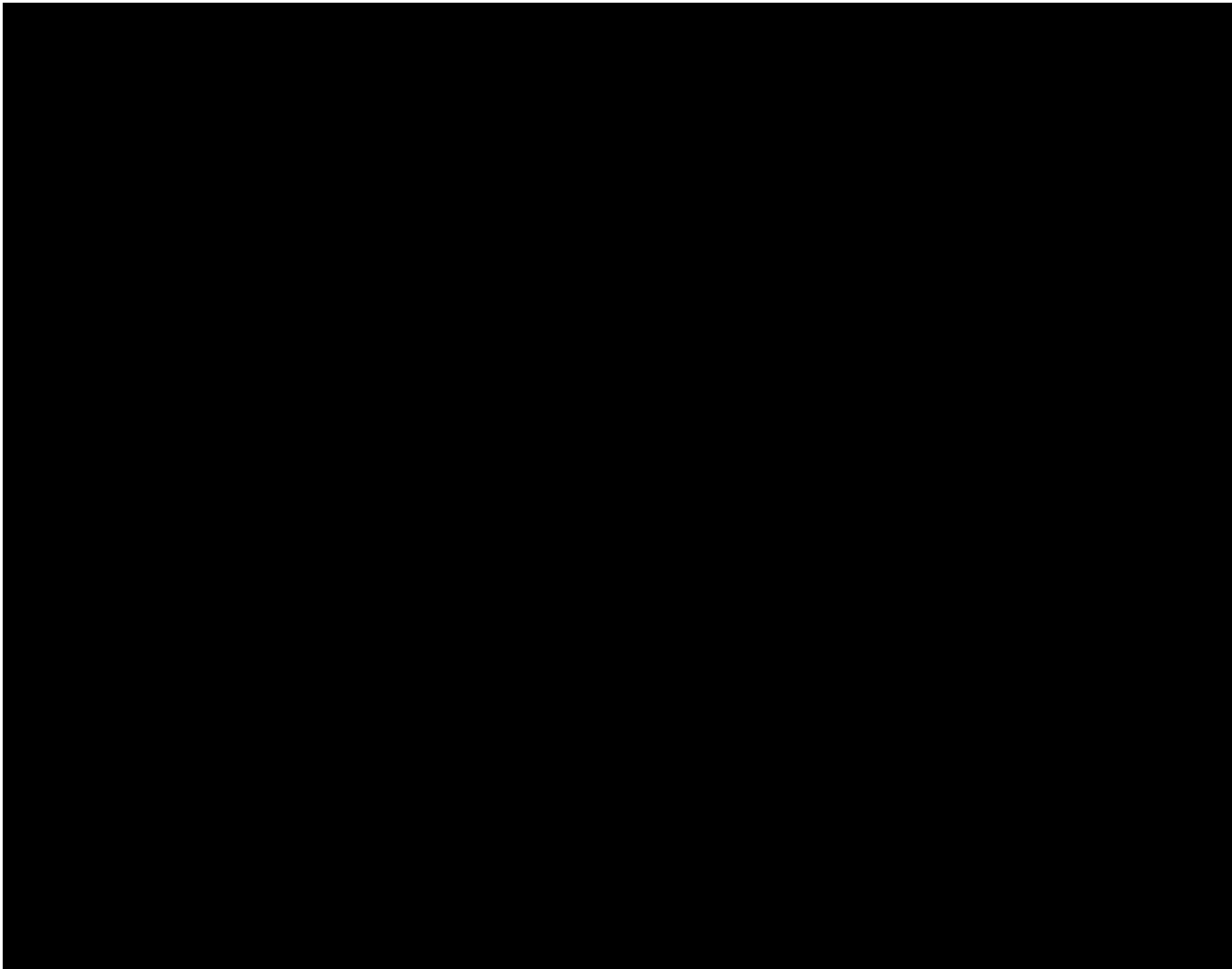
13.3 **Extended Cure Period.** If any default by Operator under this Agreement cannot be cured without the Operator Mortgagee obtaining possession of all or part of the Operator Property, then any such default shall be deemed remedied if an Operator Mortgagee: (i) within sixty (60) days after receiving notice from Owner as set forth in Section 13.2, acquires possession of all or part of the Operator Property, or begins appropriate judicial or nonjudicial proceedings to obtain the same; (ii) diligently prosecutes any such proceedings to completion; and (iii) after gaining possession of all or part of the Operator Property performs all other obligations as and when the same are due in accordance with the terms of this Agreement. If an Operator Mortgagee is prohibited by any court or by operation of any bankruptcy or insolvency laws from commencing or prosecuting the proceedings described above, the sixty (60) day period specified above for commencing proceedings shall be extended for the period of such prohibition.

13.4 **Operator Mortgagee Liability.** Any Operator Mortgagee whose interest in the Operator Property is held solely for security purposes, shall have no obligation or liability under this Agreement unless and until the Operator Mortgagee succeeds to absolute title to the Operator Property and the rights of Operator under this Agreement. An Operator Mortgagee shall be liable to perform obligations under this Agreement only for and during the period it directly holds such absolute title.

13.5 **Certificates.** Owner shall execute any estoppel certificates (certifying as to truthful matters, including without limitation that no default then exists under this Agreement, if such be the case), consents to assignment and non-disturbance agreements as Operator or any Mortgagee may reasonably request from time to time. The Parties shall negotiate in good faith

any amendment to this Agreement from time to time to include any provision that may be reasonably requested by Operator or any Operator Mortgagee to implement the provisions contained in this Agreement or to preserve an Operator Mortgagee's security interest.

13.6 **Operator Mortgagee's Right to Enforce Mortgage and Assign.** Each Operator Mortgagee shall have the right, in its sole discretion: (i) to assign its Operator Mortgage; (ii) to enforce its lien and acquire title to all or any portion of the Operator Property by any lawful means; (iii) to take possession of and operate all or any portion of the Operator Property and to perform all obligations to be performed by Operator under this Agreement, or to cause a receiver to be appointed to do so; and (iv) to acquire all or any portion of the Operator Property by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer all or any portion of the Operator rights under this Agreement to a third party in accordance with Section 14. Any Operator Mortgagee or other party who acquires Operator's interest in all or a portion of the Operator Property pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on Operator by this Agreement, which are incurred or accruing after such Operator Mortgagee or other party no longer has ownership or possession of the Operator Property.



the Operator Property without hindrance by Owner or any person claiming by, through or under Owner; provided that all of the conditions for the New Agreement as set forth above are complied with.

13.8 Operator Mortgagee's Consent to Amendment, Termination or Surrender.

Notwithstanding any provision of this Agreement to the contrary, the Parties agree that so long as any Operator Mortgage remains outstanding, this Agreement shall not be modified or amended, and Owner shall not accept a surrender, cancellation or release of all or any part of the Operator Property from Operator, prior to expiration of the Term of this Agreement, without the prior written consent of the Operator Mortgagee holding such Operator Mortgage. This provision is for the express benefit of and shall be enforceable by each Operator Mortgagee as if it were a party named in this Agreement.

14. **Assignment and Sublease.** Operator shall have the right, to sell, convey, lease, or assign all or any portion of this Agreement or the Operator Property, on either an exclusive or a non-exclusive basis, or to grant subeasements, co-easements, easements, licenses or similar rights with respect to the Operator Property (collectively, "Assignment"), to one or more persons or entities (collectively "Assignee"). Each Assignee shall use the Operator Property only for the uses permitted under this Agreement. Operator may make a complete assignment of this Agreement only in connection with the assignment of all, or substantially all, of the assets of Operator and be released from liability hereunder in such event from obligations subject thereof accruing after the date that liability for such obligations is assumed by the Assignee. In the event of any partial assignment of Operator's rights hereunder, Operator shall not be released from liability hereunder without Owner's written consent. When Operator makes any Assignment under this Section 14, Operator shall give written notice to Owner of such Assignment (including the interest conveyed by the Assignment and address of the Assignee for notice purposes) to Owner; provided Operator's failure to give such notice shall not constitute a default under this Agreement, but rather shall only have the effect of not binding Owner with respect to such assignment or conveyance until such notice is given.

15. Hazardous Materials.

15.1 **Owner's Covenants Regarding Hazardous Materials.** Owner represents and warrants that, to the best of Owner's knowledge, the Owner's Property is not and has not been in violation of any federal, state or local environmental health or safety laws, statute, ordinance, rule, regulation or requirement ("**Environmental Laws**"), and Owner has not received any notice or other communication from any governmental authorities alleging that the Owner's Property is in violation of any Environmental Laws. "**Hazardous Materials**" shall mean any asbestos containing materials, petroleum, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances, or toxic substances under any federal, state, or local law or regulation. Owner warrants that Owner has done nothing to contaminate the Operator Property with Hazardous Materials or wastes.

15.2 **Operator's Covenants Regarding Hazardous Materials.** Operator shall, at Operator's sole cost and expense, promptly take removal or remedial action required by Environmental Law with regard to any material violation of any Environmental Law with regard

to any Hazardous Materials brought onto the Owner's Property by Operator or its employees, agents, or contractors. Owner shall cooperate with Operator with regard to any scheduling or access to the Owner's Property in connection with any action required hereunder.

15.3 **Operator's Indemnity Regarding Hazardous Materials.** Operator shall indemnify, defend, protect and hold Owner harmless from any liability based on: (i) the release of Hazardous Materials in, on, under or about the Owner's Property caused by Operator or its employees, agents, or contractors, or (ii) the violation by Operator or its employees, agents, or contractors of any Environmental Law. The indemnity obligations set forth herein shall survive termination of this Agreement.

16. **Insurance and Indemnity.**

16.1 **Insurance.** At all times during which Operator is conducting any activities on the Property and at all times during the Term of this Agreement, Operator shall maintain in effect (1) commercial General Liability Insurance, including bodily injury and property damage coverage with minimum limits of \$1 Million Dollars per occurrence and \$2 Million Dollars aggregate and (2) Umbrella Liability Insurance with minimum limits of \$5 Million Dollars per occurrence and \$5 Million Dollars aggregate. Upon a written request by Owner, Operator shall name Owner as additional insured on such insurance policy and provide Owner with a certificate of such insurance.

16.2 **Indemnity by Operator.** Operator shall defend, indemnify, protect and hold Owner harmless from and against all liabilities, costs, expenses, obligations, losses, damages, claims, (collectively "**Claims**") resulting from the negligence, willful misconduct, or breach of this Agreement by Operator, its agents, contractors or employees, invitees, licensees and permittees; provided, however, that such Claims are not due to the sole negligence, willful misconduct, or breach by Owner, its agents, contractors or employees, invitees, licensees or permittees.

16.3 **Indemnity by Owner.** Owner shall defend, indemnify, protect, and hold Operator harmless from and against all Claims resulting from the negligence, willful misconduct, or breach of this Agreement by Owner, its agents, contractors or employees, invitees, licensees and permittees; provided, however, that such Claims are not due to the sole negligence, willful misconduct, or breach by Operator, its agents, contractors, employees, invitees, licensees, or permittees.

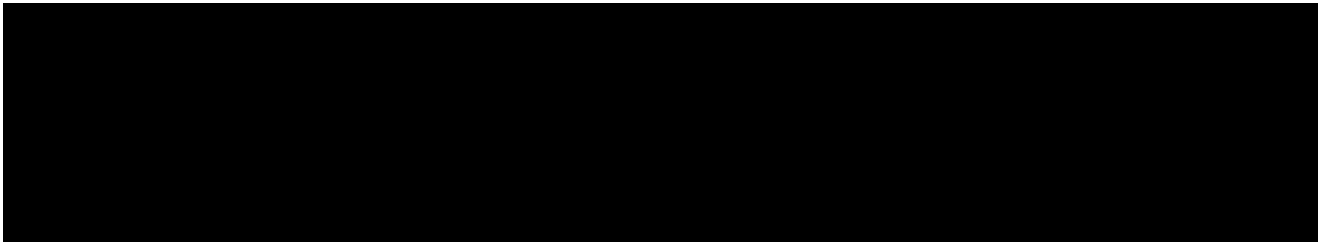
16.4 **Survival.** The obligations of the Parties under this Section 16 shall survive expiration or other termination of this Agreement.

17. **Confidentiality.** This Agreement includes confidential and proprietary information relating to Operator and the Project. Owner agrees not to provide copies of the Agreement or disclose the terms of the Agreement to any unauthorized person or entity. Operator authorizes Owner to provide copies of the Agreement and disclose the terms thereof to Owner's family ("family" shall be deemed to include all devisees or descendants of owner by will or intestacy), attorney, accountant, financial advisor and any existing or prospective mortgagee, lessee, or purchaser for the sole purpose of evaluating and advising Owner and for no other purpose, so long

as such authorized parties agree in writing to become subject to the confidentiality provisions hereto and not to provide copies of the Agreement or disclose the terms thereof to any unauthorized person or entity. Any Owner and party shall return all material containing any confidential information to Operator immediately upon its request. Any party agrees to destroy immediately upon request by Operator such analyses, compilation, studies or other documents, and any oral information will continue to be subject to the terms of this Agreement. Owner agrees that Operator will have no adequate remedy at law if any party violates any of the terms of this Agreement. In such event Operator will have the right, in addition to any other rights Operator may have, to obtain injunctive relief to restrain any breach or threatened breach by third party or specific enforcement of such terms plus reimbursement of attorneys' fees, court costs and all associated expenses. No party shall publish, file for public record, reproduce, or otherwise disseminate this document or any of the terms and provisions hereof to any party, other than the Parties set forth above without the prior written consent of Operator, which consent may be withheld for any reason and in Operator's sole discretion.

18. **Default and Remedies.**

18.1 **Operator Payment Default.** If Operator shall fail to pay any amounts set forth in **Exhibit D** which failure continues for more than thirty (30) days from receipt of written notice from Owner that such amount is due, then Operator shall be in default ("**Operator Payment Default**") and Owner shall have the following remedies:



18.1.2 **Terminate Agreement.** Owner may not terminate this Agreement because of any Operator Payment Default without first giving Operator written notice of its intention to terminate the Agreement ("**Termination Notice**"), to be effective on a date to be specified by Owner that is at least thirty (30) days after the date of the Termination Notice. If, by the date specified in the Termination Notice, Operator fails to pay the amount required to cure the Operator Payment Default (including interest at the Default Rate that accrues during the continuance of the Operator Payment Default), Owner's termination of this Agreement shall become effective on the date specified in the Termination Notice. Upon such termination, the Parties shall be relieved of all further duties and obligations under this Agreement, other than (i) the payment of any accrued and unpaid obligations owed by either Party as of the date of termination (including the amount owed by Operator with respect to the Operator Payment Default and interest payable with respect thereto); (ii) the removal of the Improvements by Operator pursuant to Section 8.11; and (iii) any other obligations and liabilities that are expressly stated in this Agreement to survive such termination. Owner's right to terminate this Agreement pursuant to this Section 18.1.2 is subject to and conditioned upon Owner giving any Operator Mortgagee written notice and opportunity to cure the Operator Payment Default as provided in Section 13.2.

18.2 **Other Operator Default.** Operator shall be in default of this Agreement if it shall fail to meet any of its obligations under the terms of this Agreement other than an Operator Payment Default as set forth in Section 18.1 and shall not cure such default within thirty (30) days after receiving notice thereof from Owner (or if such default cannot be cured through the exercise of reasonable diligence within such thirty (30) day period, if Operator fails to commence corrective action within such thirty (30) day period and thereafter diligently prosecutes same to completion) ("**Other Operator Default**"). The breach by Operator of any provision hereof may only result in a cause of action by Owner under applicable law and, other than as set forth in this Section 18.2, Owner hereby waives all other rights it may have, in law or in equity, to terminate this Agreement prior to the expiration of the Term. In the event of any such breach by Operator, Owner shall, at least thirty (30) days prior to commencing any cause of action, give written notice of the cause of breach to Operator, and any Operator Mortgagee (of which it has been notified in writing) concurrently, specifying in detail the alleged event of breach and the required remedy. If Operator does not cure or commence curing such breach within thirty (30) days of receipt of notice, the Operator Mortgagee or its designee shall have the absolute right, but not the obligation, to substitute itself for Operator and perform the duties of Operator hereunder for the purposes of curing such breach. Owner expressly consents to such substitution, agrees to accept such performance, and authorizes the Operator Mortgagee or its designee (or its employees, agents, representatives or contractors) to enter upon the Owner's Property to complete such performance with all the rights, privileges and obligations of Operator hereunder. Owner may cure any default by Operator after Operator's cure period has expired. If Owner at any time by reason of Operator's default, pays any sum or performs any act that requires the payment of any sum, the sum paid by Owner shall be due immediately from Operator to Owner, together with interest on such sum calculated at the Default Rate.

18.3 **Owner Default.** Owner shall be in default of this Agreement if it shall fail to meet any of its obligations under the terms of this Agreement and shall not cure such default within thirty (30) days after receiving notice thereof from Operator (or if such default cannot be cured through the exercise of reasonable diligence within such thirty (30) day period, if Owner fails to commence corrective action within such thirty (30) day period and thereafter diligently prosecutes same to completion) ("**Owner Default**"). Upon the occurrence of an Owner Default, Operator shall have the option to pursue any one or more of the following remedies without any further notice or demand whatsoever: (i) terminate this Agreement without being liable for prosecution or any claim of damages therefor; and (ii) pursue any and all other action or remedies that may be available to Operator at law or in equity, including but not limited to all loss or damage which Operator may suffer by reason of a termination of this Agreement.

19. **Condemnation.**

19.1 **Complete Taking.** If, at any time, any authority having the power of eminent domain shall condemn all or substantially all of the Operator's Property, or all of the Improvements thereon, for any public use or otherwise, then the interests and obligations of Operator under this Agreement in or affecting the Operator's Property shall cease and terminate upon the earlier of (i) the date that the condemning authority takes physical possession of the Operator's Property or the Improvements thereon, (ii) the date that Operator is, in its sole judgment, no longer able or permitted to operate the Project on the Operator's Property in a commercially viable manner, or (iii) the date of the condemnation judgment. Operator shall

continue to pay all amounts payable hereunder to Owner until the earlier of such dates, at which time the Parties shall be relieved of any and all further obligations and conditions to each other under this Agreement.

19.2 **Partial Taking.** If, at any time during the term of this Agreement, any authority having the power of eminent domain shall condemn one or more, but not all, of the Solar Panels, or any portion of the Improvements or the Operator's Property, then the interest and obligations of Operator under this Agreement as to those Solar Panels or any portion of the Improvements or the Operator's Property so taken shall cease and terminate upon the earlier of (i) the date that the condemning authority takes possession of such Solar Panels or any portion of the Improvements or the Operator's Property, (ii) the date that Operator is, in its reasonable judgment, no longer able or permitted to operate the Project on the Operator's Property, or any portion thereof, in a commercially viable manner, or (iii) the date of the condemnation judgment; and, unless this Agreement is terminated as hereinafter provided, this Agreement shall continue in full force and effect as to the remainder of the Solar Panels, Improvements and the Operator's Property. If the remainder of the Solar Panels or any other portion of the Improvements or the Operator's Property is or becomes insufficient or unsuitable for Operator's purposes hereunder, as determined by Operator in its sole discretion, then, subject to the rights of any Operator Mortgagee under Section 13, Operator shall have the right to terminate this Agreement as to the portion of the Operator's Property to which Operator continues to hold the rights, at which time the Parties shall be relieved of any further obligations and duties to each other under this Agreement.

19.3 **Apportionment, Distribution of Award.** On any taking, all sums awarded, including damages and interest, shall be paid as follows:

- (a) Any portion of the award by the court on account of any cost or loss that Operator may sustain in the removal and relocation of Operator's Improvements, to Operator;
- (b) Any portion of the award by the court for Operator's anticipated or lost revenues or profits, to Operator;
- (c) Any portion of the award by the court for Owner's lost revenues, to Owner;
- (d) All remaining amounts of the award, to Owner or Operator consistent with applicable Kentucky law.

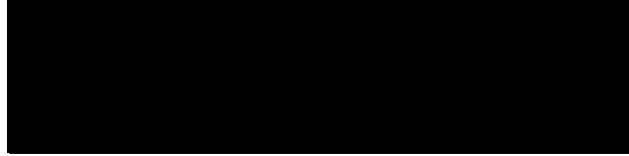
20. **Notice.**

20.1 **Writing.** All notices given or permitted to be given hereunder shall be in writing.

20.2 **Delivery.** Notice is considered given either (i) when delivered in person to the recipient named below, (ii) upon receipt after deposit in the United States mail in a sealed envelope or container, postage and postal charges prepaid, return receipt requested or certified mail, addressed by name and address to the party or person intended, or (iii) twenty-four (24)

hours from proper and timely delivery to an overnight courier service addressed by name and address to the party or person intended as follows:

Notice to Owner: Phillip D. Branson and Robin R. Branson



Notice to Operator: Sebree Solar, LLC
700 Universe Blvd
Juno Beach, FL 33408
Attn: Land Services Administration
Telephone: (855) 552-9872

20.3 **Change of Recipient or Address.** Either Party may, by notice given at any time or from time to time, require subsequent notices to be given to another individual person, whether a party or an officer or representative, or to a different address, or both. Notices given before actual receipt or notice of change shall not be invalidated by the change.

21. **Miscellaneous Provisions.**

21.1 **Successors and Assigns.** The terms and provisions of this Agreement shall run with the land and be binding on and inure to the benefit of the heirs, successors, assigns and personal representatives of the Parties. In accordance with this Agreement, Operator in its discretion may authorize other persons or entities to use the Operator Property for the purposes stated in this Agreement

21.2 **Memorandum.** Simultaneously with the execution of this Agreement, the Parties agree to execute and acknowledge a memorandum of this Agreement. Operator may record the executed memorandum in the public records of Henderson County, Kentucky.

21.3 **Entire Agreement.** This Agreement and the attached Exhibits shall constitute the entire agreement between the Parties and supersedes all other prior writings and understandings.

21.4 **Amendments.** This Agreement shall not be amended or modified in any way except by an instrument signed by the Parties and consented to by any Operator Mortgagee. The Parties hereto shall at all times hereafter execute any documents and do any further acts which may be necessary or desirable to carry out the purposes of this Agreement and to give full force and effect to each and all of the provisions hereof.

21.5 **Legal Matters.** This Agreement shall be governed by and interpreted in accordance with the then existing laws of the Commonwealth of Kentucky and the County where the Owner's Property is located shall be considered the proper forum or jurisdiction for any disputes arising in connection with this Agreement. The Parties agree to first attempt to settle any dispute arising out of or in connection with this Agreement by good-faith negotiation. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this

Agreement, each shall have all remedies available at law or in equity and as provided by this Agreement. **Each Party waives all right to trial by jury and specifically agrees that trial of suits or causes of action arising out of this Agreement shall be to the court of competent jurisdiction.**

21.6 **Severability.** If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid, shall be enforced to the fullest extent permitted by law.

21.7 **Tax Credits.** If under applicable law Operator becomes ineligible for any currently existing tax credit, benefit or incentive for alternative energy expenditure established by any local, state or federal government, then, at Operator's option, the Parties shall negotiate in good faith to amend this Agreement or replace it with a different instrument so as to convert Operator's interest in the Operator Property to a substantially similar interest that makes Operator eligible for such tax credit, benefit or incentive. Such amendment or instrument shall not impair any of Owner's rights or increase the burdens or obligations of Owner under this Agreement.

21.8 **Water Line.** Operator shall have the right to relocate the water line directly to the house at the Operators expense, should the water line interfere with the location of the improvements.

21.9 **Gas Service Line.** Operator acknowledge the existence of the gas service line.

21.10 **Approvals.** Whenever in this Agreement the approval or consent of either Party is required or contemplated, unless otherwise specified, such approval or consent shall not be unreasonably withheld or delayed.

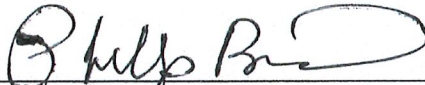
21.11 **Authority.** The signatories hereto warrant that each has the authority to execute this Agreement on behalf of any entities which are Parties to this Agreement and that each such entity has executed this Agreement pursuant to its organizational documents or a resolution or consent of their Board of Directors or other governing body.

21.12 **Time of Essence.** Time is of the essence of each provision of this Agreement.

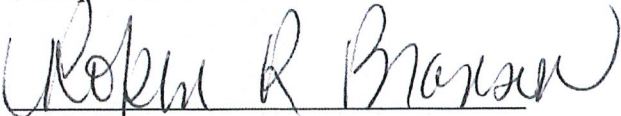
21.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

[Signatures on Next Pages]

Owner:



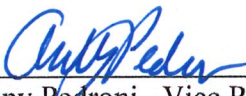
Phillip D. Branson



Robin R. Branson

Operator:

Sebree Solar, LLC
a Delaware limited liability company

By: 

Anthony Pedroni , Vice President

EXHIBIT A

Legal Description of Owner's Property

The following described real property located in Henderson County, Kentucky, more particularly described as follows, to wit:

Consisting of 45.50 acres, more or less, located about ¼ mile west of Robards, Kentucky, on the Robards and Cairo Road, bounded and described as follows:

Beginning at a stake on the south side of the Robards and Cairo Road, corner to Mrs. Duncan in L. B. Eblens' line (formerly William Eblen), thence with Eblens' east line north 2½ degrees west 20.75 chains, more or less, to the east right of way line of State Highway #283, thence with said east right of way line north 3 degrees east 27.50 chains, thence with a curve to the right, said curve having a radius of 2834.90 feet, a distance of 3.57 chains to S.E. Kings' line, thence with Kings' line South 87¼ degrees east 7.43 chains, more or less, to a stake near a black gum, thence south 1¼ degrees east 49.93 chains to a point in the Robards and Cairo Road, thence with said road, south 82 degrees west 9.75 chains to the place of beginning, containing 45.50 acres, more or less, but subject to legal highways.

The above being the same property acquired by Phillip D. Branson and his wife Robin R. Branson by Deed dated July 7, 1997, of record in Deed Book 649, Page 120, in the Henderson County Clerk's office.

QLA ID: 7631



Sebree Solar

HENDERSON, KENTUCKY




BRANSON, PHILLIP D

APN : 71-52

Total Property Acres: 46.5
Total Excluded Acres: 12

Exhibit Date: 10/12/2021

Legend

-  Excluded Area
-  Property
-  Parcel Boundary

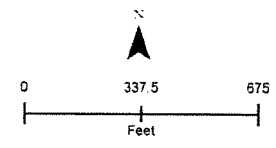
Owner (Print Name)

Owner Signature

Contact Phones

Date

Livestock Y / N



71-52
Branson, Phillip D
46.5ac

EXHIBIT B-1
EXCLUDED AREA OF OWNER'S PROPERTY

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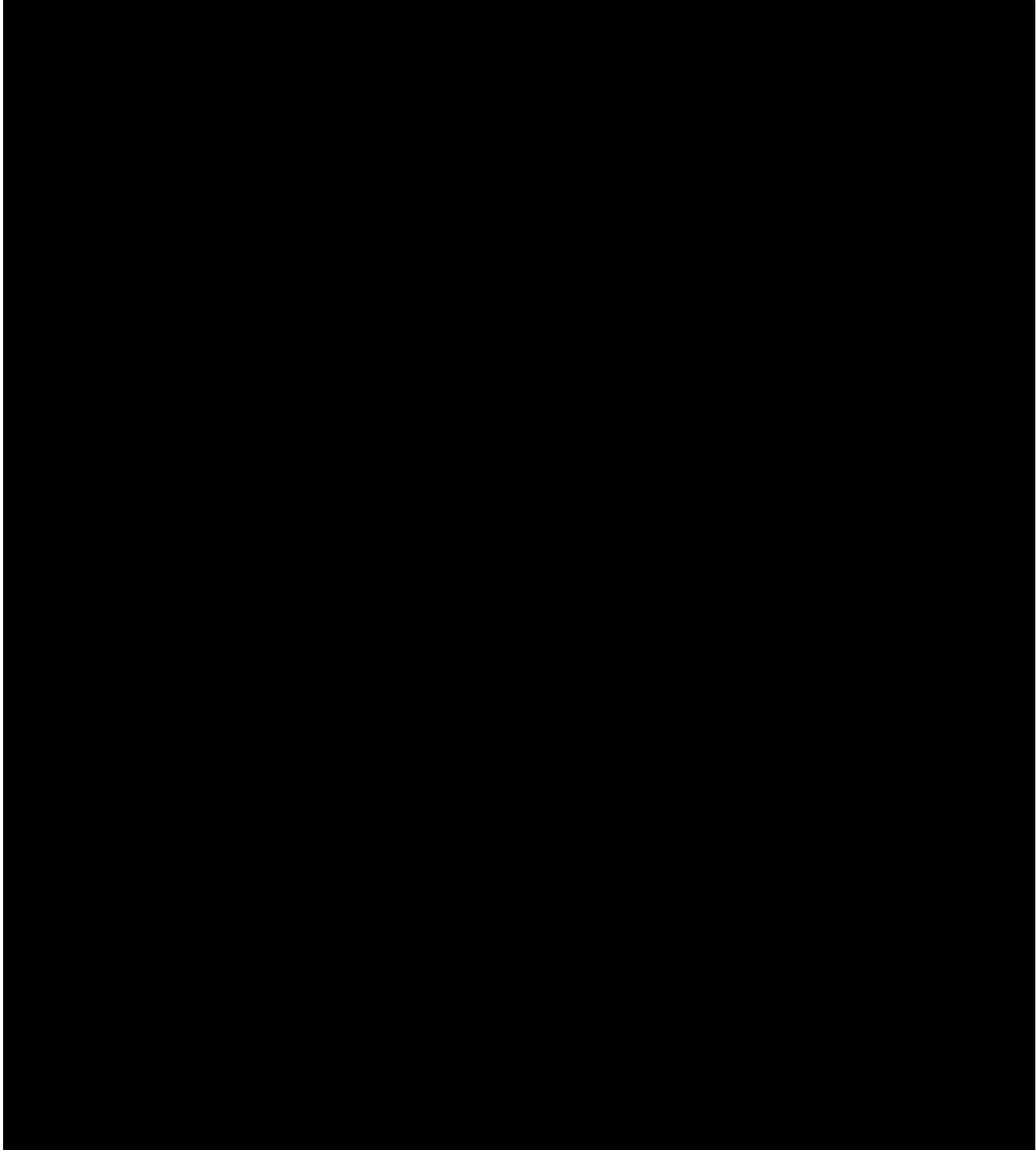
Preliminary Lease and Easement Improvement Plan and Acreage Calculation
To be Delivered with Option Notice

HOLDING PAGE FOR EXHIBIT C

As Built Lease and Easement Improvements and Final Acreage Calculation

EXHIBIT D

Lease and Easement Compensation



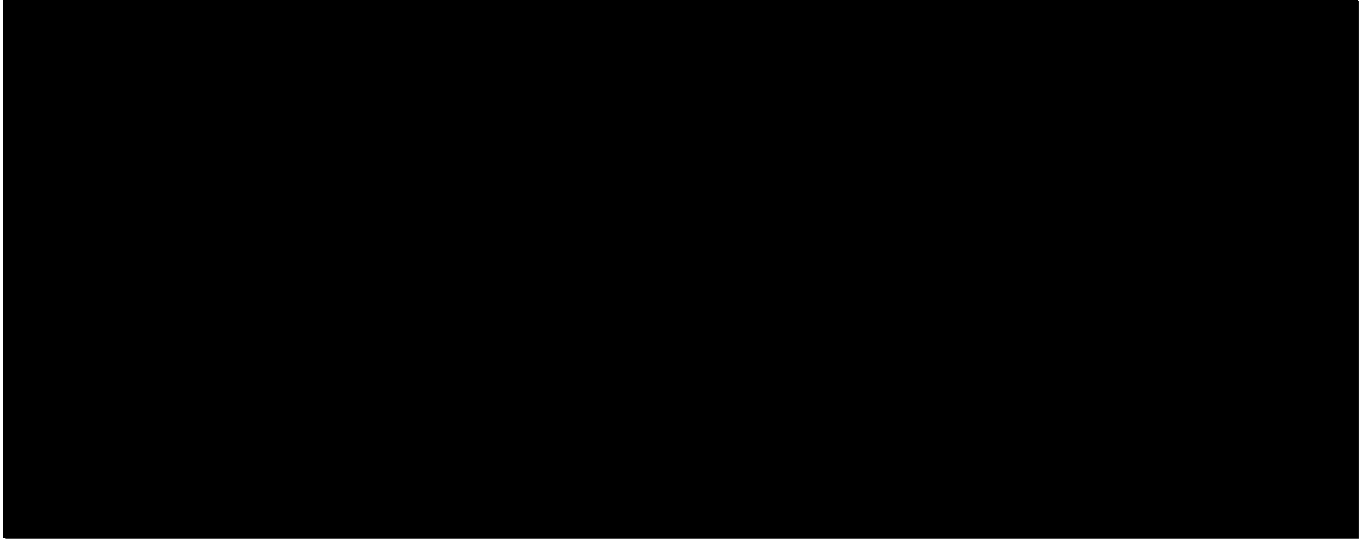


EXHIBIT A

Legal Description of Owner's Property

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Consisting of 45.50 acres, more or less, located about ¼ mile west of Robards, Kentucky, on the Robards and Cairo Road, bounded and described as follows:

Beginning at a stake on the south side of the Robards and Cairo Road, corner to Mrs. Duncan in L. B. Eblens' line (formerly William Eblen), thence with Eblens' east line north 2½ degrees west 20.75 chains, more or less, to the east right of way line of State Highway #283, thence with said east right of way line north 3 degrees east 27.50 chains, thence with a curve to the right, said curve having a radius of 2834.90 feet, a distance of 3.57 chains to S.E. Kings' line, thence with Kings' line South 87¼ degrees east 7.43 chains, more or less, to a stake near a black gum, thence south 1¼ degrees east 49.93 chains to a point in the Robards and Cairo Road, thence with said road, south 82 degrees west 9.75 chains to the place of beginning, containing 45.50 acres, more or less, but subject to legal highways.

The above being the same property acquired by Phillip D. Branson and his wife Robin R. Branson by Deed dated July 7, 1997, of record in Deed Book 649, Page 120, in the Henderson County Clerk's office.

QLA ID: 7631



Sebree Solar

HENDERSON, KENTUCKY

BRANSON, PHILLIP D




APN : 71-52

Total Property Acres: 46.5

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Legend

-  Excluded Area
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-  Parcel Boundary

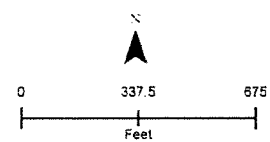
Owner (Print Name)

Owner Signature

Contact Phones

Date

Livestock Y / N



71-52
Branson, Phillip D
46.5ac

EXCLUDED AREA OF OWNER'S PROPERTY

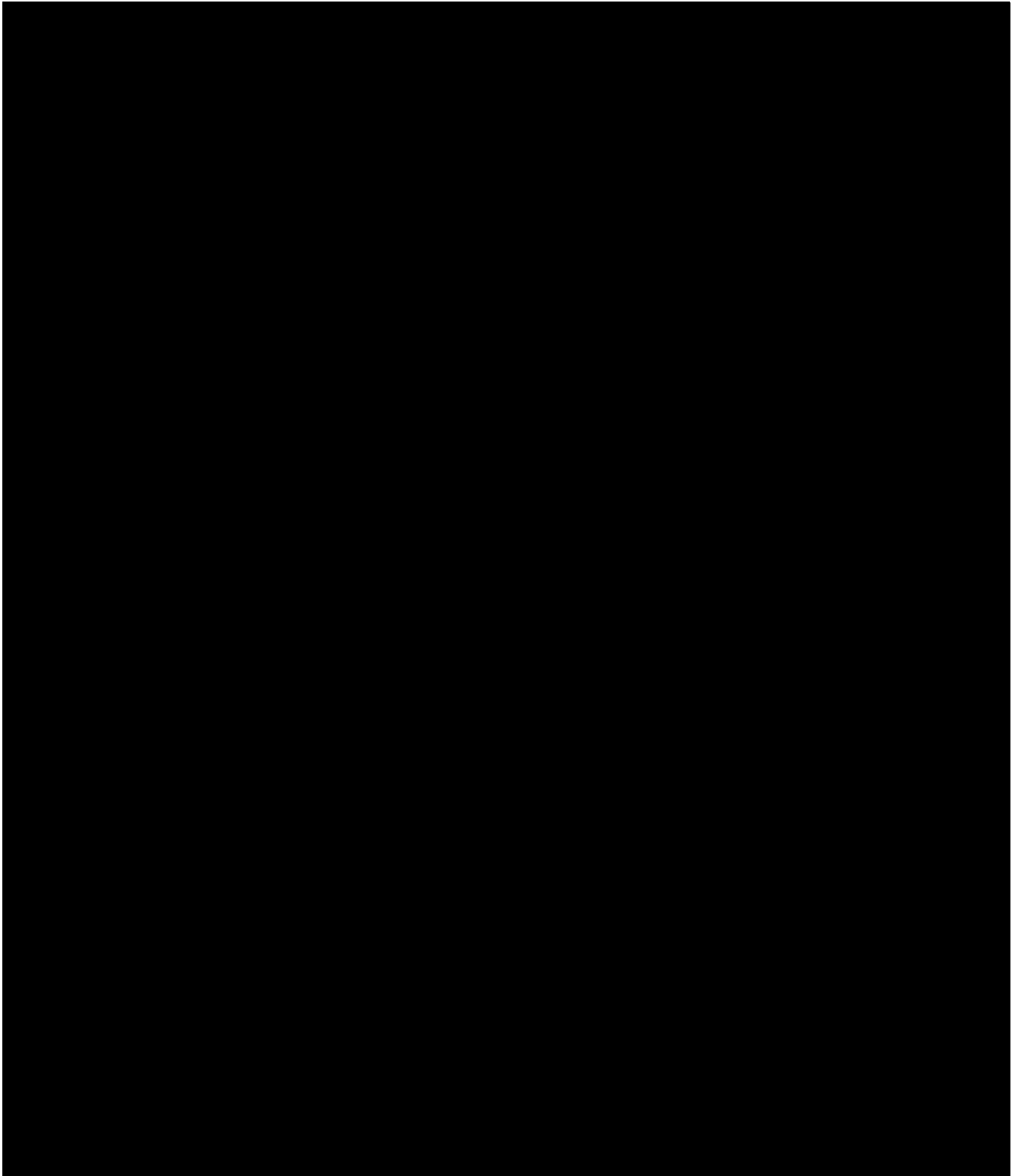
EXHIBIT B-1

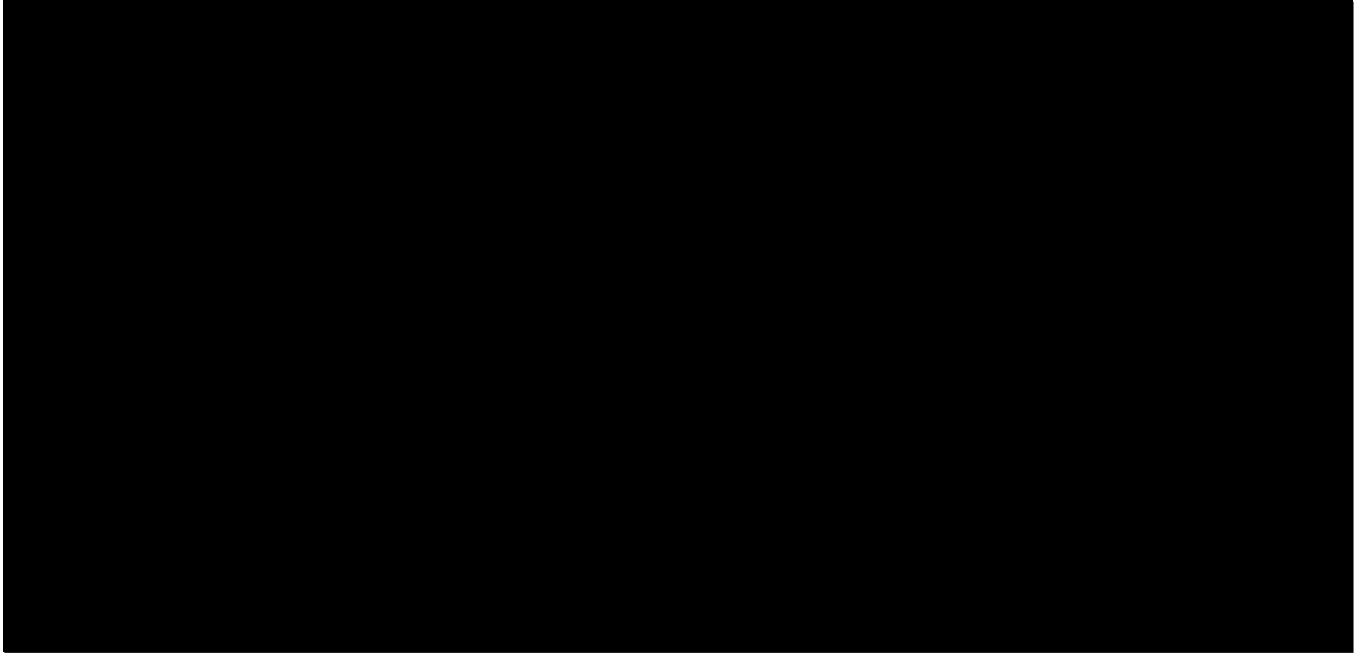
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Preliminary Lease and Easement Improvement Plan and Acreage Calculation
To be Delivered with Option Notice

HOLDING PAGE FOR EXHIBIT C

As Built Lease and Easement Improvements and Final Acreage Calculation





REAL ESTATE PURCHASE OPTION AGREEMENT

THIS REAL ESTATE PURCHASE OPTION AGREEMENT ("**Agreement**"), made and entered into as of the 11th day of January, 2021 by and between Mary Ann Sugg, a unmarried widow, whose address is 320 Chimney Hill Lane, Henderson, Kentucky 42450 ("**Seller**") and Sebree Solar, LLC, a Delaware limited liability company, whose address is 700 Universe Boulevard, Juno Beach, FL., 33408 ("**Purchaser**"), provides as follows:

THAT, FOR AND IN CONSIDERATION of the mutual covenants, promises, conditions, and undertakings set forth herein, the payment of the Option Fee (as hereafter defined), and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, Seller and Purchaser covenant and agree as follows:

1. **Grant of Option.** Seller hereby grants to Purchaser an exclusive right and option ("**Option**") to purchase from Seller, upon the terms and conditions hereafter set forth, that certain real property located in the County of Henderson ("**County**"), Commonwealth of Kentucky, and any structures, buildings, and other improvements thereon, together with existing access easements benefiting such real property, all of which is more particularly described on **Exhibit A** attached hereto and incorporated herein by reference together with Seller's right, title and interest, if any, in and to all streets, alleys and right-of-ways adjacent to the real property, any easement rights, air rights, subsurface development rights, water rights and other rights appurtenant to the real property, any minerals, including oil, gas and other hydrocarbon substances on the real property, all of which shall be referred to herein as the "**Property**".



4. **Exercise of Option, Non-Exercise of Option.** Purchaser may elect to exercise the Option at any time during the Option Term by giving written notice of exercise to Seller. If the Option is exercised as provided herein, this Agreement shall become and constitute a binding contract for the purchase and sale of the Property on the terms and conditions set forth in this Agreement. Upon exercise of the Option by the Purchaser, closing on the purchase and sale of the Property hereunder ("**Settlement**") will occur on a date mutually agreed to by Purchaser and Seller, but no later than sixty (60) days after the date of such written notice of exercise ("**Settlement Date**"). Purchaser shall have the right to terminate the Agreement at any time during the Option Term in Purchaser's sole discretion for any reason by giving Seller written notice, and in such event Seller shall retain any Option Fee delivered by Purchaser as of the termination date, subject to the provisions of this Agreement under which Purchaser has the right to terminate the Agreement and have any Option Fee returned to Purchaser.

6. **Title.**

A.

State of Title. Seller's title to the Property is, as of the Effective Date, and shall be, at the time of Settlement, marketable, fee simple, indefeasible, and fully insurable at standard rates by a reputable title insurance company selected by Purchaser ("**Title Insurer**"), subject only to those exceptions acceptable to Purchaser, in its sole discretion. Seller shall cause title to the Property to be conveyed to Purchaser by special warranty deed subject only to current taxes and assessments and matters approved by Purchaser in accordance with Section 6(B) (the "**Permitted Exceptions**"). At Settlement, Seller must satisfy all reasonable requirements imposed by the Title Insurer to issue its ALTA standard owner's policy of title insurance, insuring title to the Property in the name of the Purchaser with liability in the amount of the Purchase Price or such higher amount as may be specified by Purchaser (the "**Owner's Policy**"). The Owner's Policy shall list as exceptions to coverage only the foregoing taxes and assessments and the Permitted Exceptions.

B.

Title Examination.

Within the Option Term, Purchaser, at its expense, may cause a Title Insurer to issue a title insurance commitment ("**Commitment**") to issue an Owner's Policy to Purchaser. At least thirty 30 days prior to the earlier of (a) the exercise of the Option or (b) the expiration of the Option Term, Purchaser shall advise Seller in writing ("**Title Objection Notice**") of those exceptions to title in the Commitment, which may include any unrecorded leases disclosed by the Seller in accordance with this Agreement, and those matters shown on the Survey contemplated by this Agreement that are unacceptable to Purchaser ("**Title Defects**"). Any exceptions to title insurance shown on the Commitment and matters shown on the Survey that are not contained in the Title Objection Notice shall be deemed Permitted Exceptions. Any title matters affecting the Property and arising after the Effective Date shall not be considered Permitted Exceptions without Purchaser's prior written consent in accordance with Section 6(C). Seller shall use its good faith efforts to cure all Title Defects promptly and at its expense. In the event that Seller is unable to cure any Title Defects (excluding any Monetary Liens) within the thirty (30) day period following the date of the Title Objection Notice or by the Settlement Date, whichever first occurs ("**Title Cure Period**") after good faith efforts to do so, Seller shall notify Purchaser in writing as to which Title Defects remain uncured on or before the end of the Title Cure Period and Purchaser shall have twenty (20) days following such notice to either: (i) elect to accept title to the Property subject to the uncured Title Defects, in which event such Title Defects shall be deemed Permitted Exceptions; (ii) terminate this Agreement by written notice thereof to Seller, whereupon this Agreement shall be terminated, the Option Fee shall be returned to Purchaser by Seller and both parties shall thereafter be released from all further obligations hereunder, except for those obligations specifically stated herein to survive termination of this Agreement; or (iii) elect to extend the Title Cure Period or Settlement Date, if the Option has been exercised, for a reasonable period of time designated by Purchaser (not to exceed thirty (30) days) and, if upon the expiration of such period Seller shall not have cured the Title Defects, Purchaser shall have the

options set forth in (i) or (ii) above. Notwithstanding the above, Seller shall be obligated to cure any Title Defects created by Seller and any judgment, lien or encumbrance that can be cured by the payment at Settlement of a liquidated amount ("**Monetary Liens**"). At Settlement, Seller shall provide Purchaser and Title Insurer with all affidavits in form reasonably acceptable to the Title Insurer to permit the Title Insurer to insure against adverse matters caused by Seller and first appearing in the Office of the Clerk of the County on a date subsequent to the effective date of the Commitment and prior to the recording of the deed required by the terms of this Agreement, and to permit Title Insurer to delete the standard exceptions, including parties in possession, mechanics' or materialmen's liens and unrecorded easements

C. Future Title Matters. Seller shall not, after the Effective Date, subject the Property, or consent, to any liens, encumbrances, covenants, conditions, restrictions, easements, or rights-of-way, or seek any zoning changes or take any other action that might affect or modify the status of title to the Property (other than curing or removing title exceptions as contemplated by Section 6(B)) without Purchaser's prior written consent. If Seller violates the provisions of the preceding sentence, Seller shall, prior to Settlement, and at its expense, effect the release of any such liens, encumbrances, covenants, conditions, restrictions, easements and rights-of-way, and take such steps as are necessary to return the zoning and title of the Property to the condition that existed as of the Effective Date or as agreed to by Purchaser.

7. Due Diligence.

A. Purchaser's Tests and Inspections. Purchaser shall have the right during the Option Term, to use all existing easements and roads providing access to the Property, including any easements described on **Exhibit A**, and to enter upon the Property and to perform, at its expense, boring tests and economic, engineering, topographic, environmental, survey and marketing tests or any other studies, tests and due diligence as Purchaser elects in its sole discretion. Said tests shall include but not be limited to the installation on the Property of any weather related instruments and fencing of said instruments reasonably required by Purchaser and access to said instruments. Purchaser shall not interfere with Seller's current operations on the Property while conducting any studies, tests and due diligence on the Property but in the event that Purchaser does interfere with Seller's current operations, Purchaser shall use all reasonable efforts to minimize any impact on Seller's operations. During the Option Term, Seller agrees to make available to Purchaser for inspection, and, at Settlement, to assign to Purchaser without cost, any and all architectural and engineering studies, surveys, and other related materials or information relating to the Property that are in, or come into, Seller's possession or control as more particularly set forth herein. Within the Option Term, Purchaser may elect, at its option and expense, to cause a survey of the Property ("**Survey**") to be prepared by a reputable surveyor, certifying the acreage of the Property and containing such other information as the Purchaser may direct. Provided Purchaser elects to cause a survey to be prepared, Purchaser may arrange for the preparation of the Survey during the Option Term or at any time prior to Settlement. Purchaser agrees to indemnify against and hold Seller harmless from any claims, damages, costs, or expenses arising from entry upon the Property by Purchaser, or any agents, contractors, or employees of Purchaser with the exception of: (i) any loss, liability, cost or expense to the extent arising from or related to acts of Seller or any tenants, (ii) any diminution in value of the Property arising from or related to matters discovered by Purchaser during its investigation of the Property, (iii) any latent defects in the

Property discovered by Purchaser, (iv) liability which results from the release of preexisting toxic or Hazardous Materials on or about the Property resulting from normal environmental testing procedures, and (v) liability which arises from the results or findings of such tests. The provisions of this Section shall survive the Settlement Date or earlier termination of this Agreement. If Settlement does not occur, Purchaser, at its own expense, shall repair any damage to the Property caused by Purchaser's tests and studies. In the event Purchaser does not exercise the Option, Purchaser shall provide to Seller a copy of the Survey it receives in accordance with this Agreement.

B. Delivery of Due Diligence Information. The following instruments and items of information shall be delivered by Seller to Purchaser within fifteen (15) days after the Effective Date to the extent these items are in the Seller's possession or control:

1. All reports covering underground soil and water conditions at the Property and in the possession of Seller or its agent.
2. Copies of any and all licenses, permits and inspection reports issued by governmental authorities with respect to the Property.
3. Copies of the most recent real estate tax bills as to the Property.
4. All current leases and royalty agreements for any portion of the Property.
5. All existing surveys for any portion of the Property.
6. All existing title policies for any portion of the Property.
7. All existing environmental reports for any portion of the Property.
8. Copies of well permits, statements of beneficial use and decrees relating to any ground water wells on or under the surface of the Property.

C. Access to Books and Records. Seller covenants and agrees that its shall give to Purchaser and to Purchaser's counsel, accountants and other representatives full access during normal business hours to the Property and to contracts and commitments of Seller relating to the Property, if any, and shall furnish to Purchaser all such information concerning the Property in the possession of Seller or their agents that Purchaser may reasonably request.

8. Settlement Deliveries.

A. Seller's Deliveries. At or before Settlement, Seller shall deliver to Escrow Agent all of the following documents and instruments, which shall have been executed by Seller:

1. A special warranty deed ("**Deed**"), in the form attached hereto as **Exhibit B** granting and conveying to Purchaser title to the Property in fee simple absolute, such Deed to be delivered in hand at Settlement;

2. A bill of sale and general assignment transferring and conveying all of Seller's right, title and interest in and to any personal property at the Property that Purchaser has agreed to accept and all of Seller's right, title and interest in and to all licenses, rights, permits and authorizations pertaining to the Property;

3. Such affidavits, certificates and forms as may be required by the Title Insurer, any lender, or state or local law;

4. A Certification of Non-Foreign Status pursuant to Section 1445 of the Internal Revenue Code ("**Section 1445**") that Seller is not a foreign person, foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and related regulations), and applicable federal and state tax reporting certificates including, without limitation, any required state withholding or non-foreign status affidavit or certificate;

5. A solar easement encumbering lands owned by Seller within a half-mile radius of the Property, which restricts development or construction on such lands that would overshadow or otherwise block access of the sunlight to the solar collection facilities to be located on the Property;

6. All other documents and instruments referred to herein that are to be provided to Purchaser by Seller;

7. All documents reasonably required by the Escrow Agent, including, but not limited to, an executed settlement statement; and

B. Purchaser's Deliveries. At or before Settlement, Purchaser shall deliver to Escrow Agent all of the following:

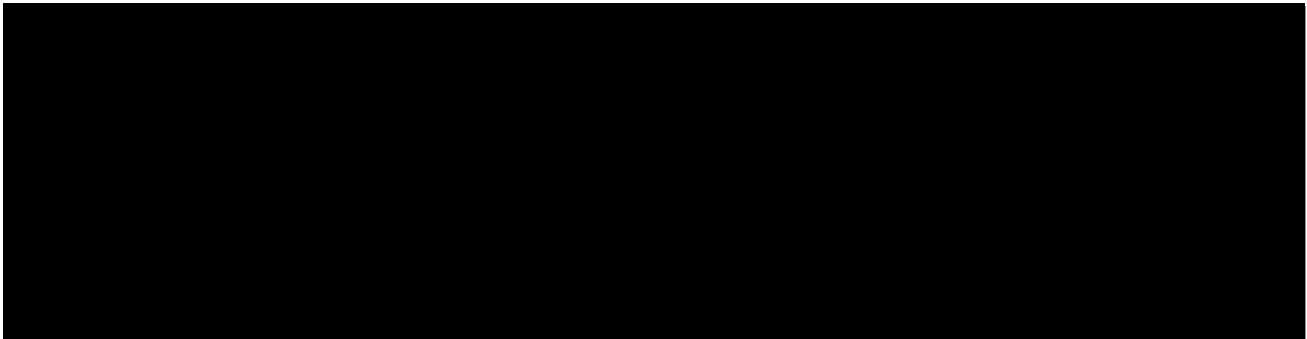
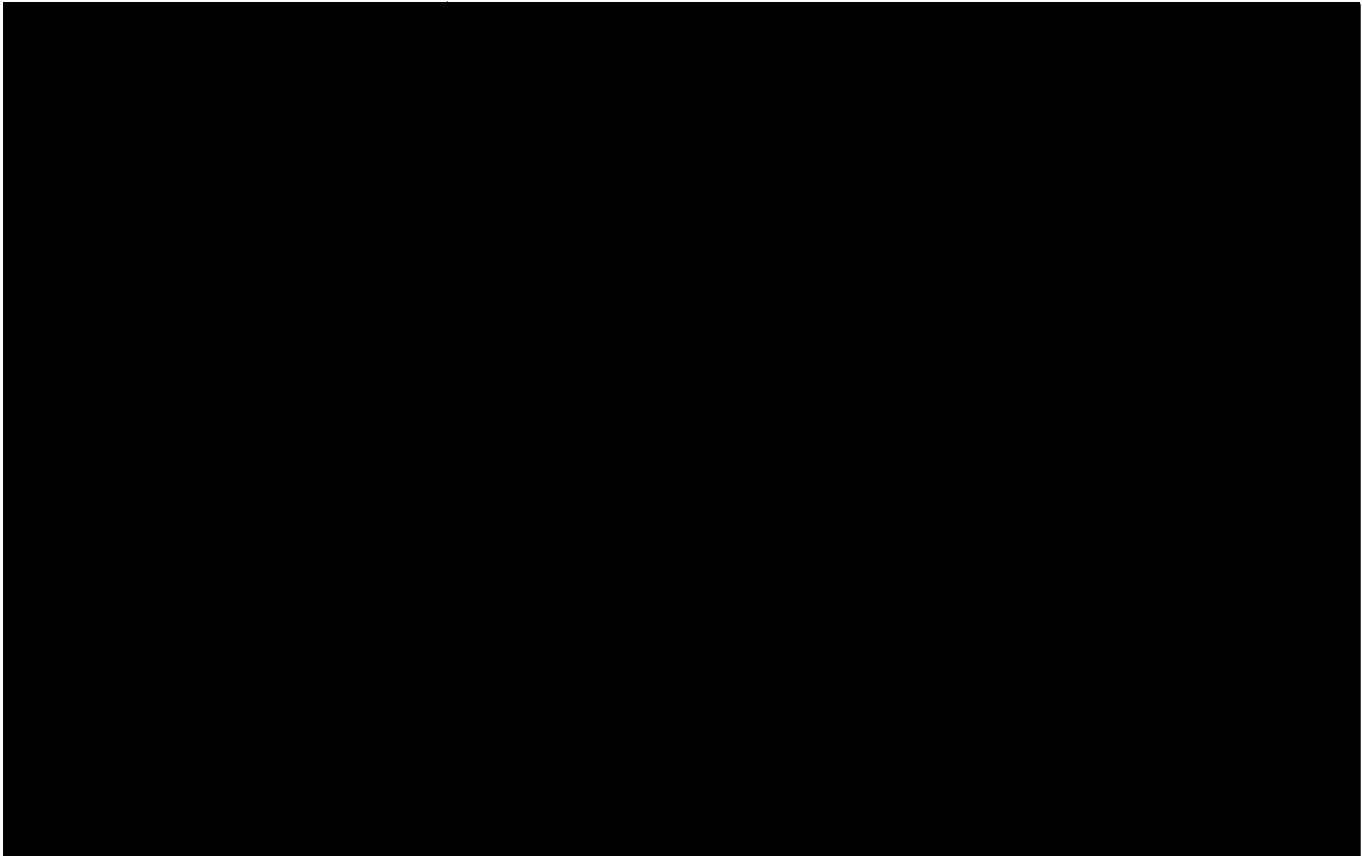
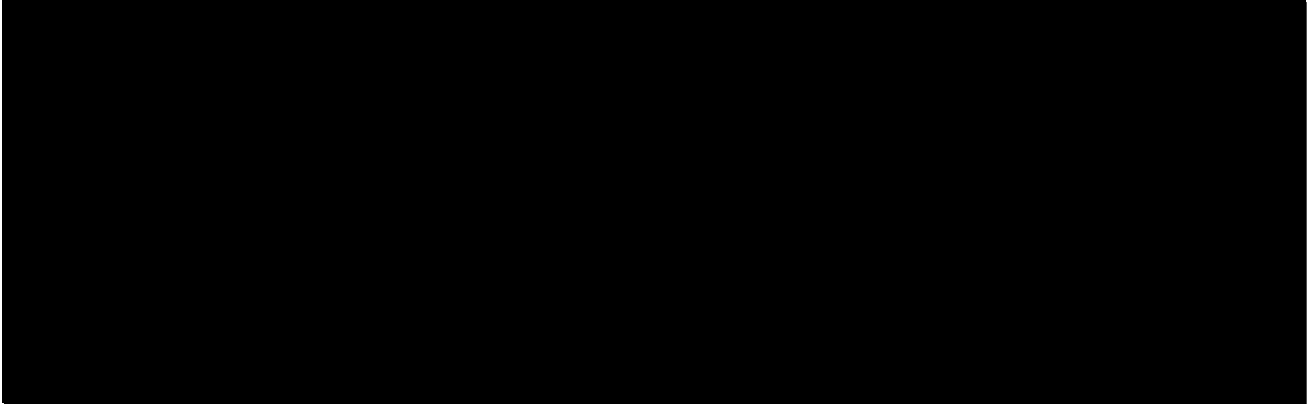
1. The Survey (provided Purchaser elects to cause preparation of the Survey);

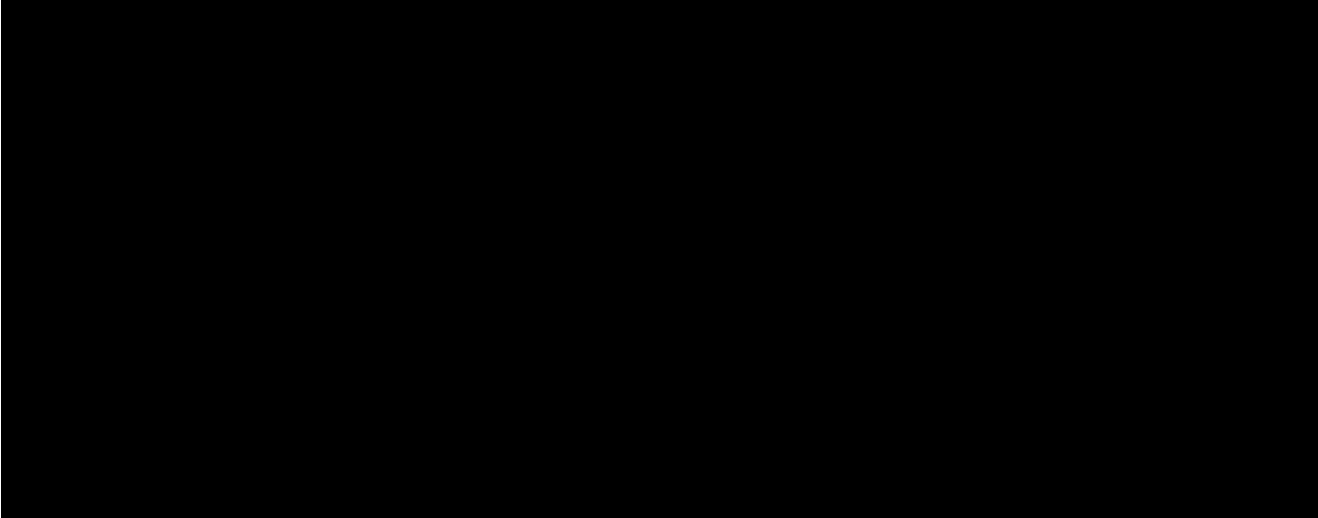
2. The Purchase Price subject to credits, prorations and adjustments as provided in this Agreement in cash or other immediately available funds;

3. All other documents and instruments referred to herein that are to be provided to Seller by Purchaser; and

4. All documents reasonably required by the Escrow Agent, including, but not limited to, an executed settlement statement.

9. **Settlement Costs: Prorated items and Adjustments.**





10. **Seller's Representations and Warranties.** To induce Purchaser to enter into this Agreement and to purchase the Property, Seller hereby makes the following representations and warranties as to the Property as of the date hereof (upon each of which Seller acknowledges and agrees that Purchaser is entitled to rely and has relied) each and all of which shall be true, correct and complete as of the Settlement Date:

A. **Authority.** Seller has the power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. Seller, and any specific individual parties signing this Agreement on behalf of Seller represent and warrant that the parties signing this Agreement on behalf of the Seller have the full legal power, authority and right to execute and deliver this Agreement. Neither the entering into this Agreement nor the performance of any of Seller's obligations under this Agreement will violate the terms of any contract, agreement or instrument to which Seller is a party.

B. **Accuracy of Documents.** To the best of Seller's knowledge, all documents and papers delivered by Seller to Purchaser pursuant to this Agreement are true, correct and complete as of the dates thereof, and there have been no material changes from the information set forth in any of them.

C. **Special Assessment.** No portion of the Property is subject to or is affected by any special assessment for improvements completed prior to the date hereof, whether or not presently a lien thereon.

D. **Taxes.** No portion of the Property is subject to or affected by any outstanding or delinquent taxes or related financial liabilities.

E. **Litigation.** Seller has not been served (by means of formal, legal service of process as required by law) with any litigation, and no arbitration proceedings have been commenced, which do or will affect any aspect of the Property or Seller's ability to perform its obligations under this Agreement. In addition, within the last two (2) years, Seller has not been threatened with any litigation (or arbitration) by a third party which would affect any aspect of the Property or Seller's ability to perform its obligations under this Agreement.

F. Compliance. Seller has not received any notice of any presently uncured violation of any law, ordinance, rule or regulation (including, but not limited to, those relating to zoning, building, fire, environment, health and safety) of any governmental, quasi-governmental authority bearing on the construction, operation, ownership or use of the Property.

G. Condemnation Proceedings. Neither all nor any portion of the Property has been condemned or conveyed by deed in lieu of condemnation, nor is there now pending or, to the best of Seller's knowledge, threatened any condemnation or similar proceeding affecting the Property or any portion thereof. Seller has no knowledge that any such proceeding is contemplated. Seller has no knowledge of any change or proposed change in the route, grade or width of, or otherwise affecting, any street or road abutting the Property, which change might have a material adverse impact on the Property.

H. Condition of Property. To the best of Seller's knowledge, there are no areas within the Property which are subject to any statutes, rules, regulations, conservation easements (or like encumbrances) or ordinances that would adversely affect the Property or Purchaser's ownership and intended use thereof.

I. Subdivision. If the Property is not a separate tax lot under applicable laws, ordinances and regulations, and subdivision may be required for the conveyance of the Property to Purchaser. If required, the Property will, on or before the Settlement Date, be subdivided from the larger tract of land owned by Seller in order to convey the Property to Purchaser. Seller shall, on or before the Settlement Date, obtain all necessary governmental approvals for a Minor Subdivision Plat delineating the Property as a separate and legal lot of a minimum of 90 acres and maximum of 95 acres in a location and having the size and configuration designated by Purchaser upon the exercise of the Option, or as may be otherwise mutually agreed upon by Purchaser and Seller.

J. Zoning and Dedication. Purchaser intends to use the property to construct and operate a solar power plant. Seller shall cooperate fully with Purchaser and execute all documents required by Purchaser or governmental or quasi-governmental authority, if any, for the purpose of securing any land use change, re-zoning, zoning variance or special use, if necessary, in order for the Property to be used for Purchaser's intended purpose. Seller has not received any notice of any pending change in zoning from any governmental or quasi-governmental authority, which change would materially affect the present zoning of the Property. Seller has not made any commitment to any governmental or quasi-governmental authority having jurisdiction, or to any third party, to dedicate or grant any portion of the Property for roads, easements, rights of way, park lands or for any restrictions or to incur any other expense or obligation relating to the Property.

K. Flood Plain; Stormwater. To the best of Seller's knowledge, the Property is not the subject or location of any stormwater detention or surface drainage facilities serving any property other than the Property, and the Property is not located in a flood zone.

L. Property Use. Seller has no knowledge of any actual, pending or threatened designation of any portion of the Property, or the area in which the Property is located, as a historic

landmark or archeological district site or structure. Seller has no knowledge of any landfill or graveyard lying within the Property. Seller has not received any notice that any of the easements, covenants, conditions, restrictions or agreements to which the Property is subject interferes with or is breached by the use or operation of the Property as presently used.

M. Environmental Laws; Hazardous Materials.

1. The Property is not now, has not been during the period of Seller's ownership, and, to the best of Seller's knowledge, was not during any period prior to Seller's ownership:

(a) in violation of any past or present federal, state, or local statute, regulation, ordinance, administrative order, judicial order or any similar requirement having the force and effect of law, relating to the protection of human health or the environment (an "**Environmental Law**") including, but not limited to, any federal, state or local regulation relating to industrial hygiene or soil or ground water conditions; or

(b) used to generate, manufacture, store, refine, dispose of, or in any manner deal with, any flammable, explosive or radioactive material, hazardous waste, toxic substance or related material, oil, waste oil, or other petroleum based materials, or any other substance or material defined or designated as a hazardous or toxic substance, material or waste by any federal, state or local law or environmental statute, regulation or ordinance presently in effect or as amended or promulgated in the future (a "**Hazardous Material**");

2. Neither Seller nor, to Seller's knowledge, any prior owners or occupants of the Property have received any notice or advice from a governmental agency with regard to Hazardous Materials on, from or affecting the Property that could give rise to any liability under any Environmental Law, and, to Sellers' knowledge, there has been no investigation, notice of violation, request for information or claim of any kind asserted or threatened by any person, including any federal, state or local governmental agency, relating to the storage, disposal, discharge or release of any Hazardous Material in a manner that would give rise to any liability under any Environmental Law.

N. That as of the Effective Date, there are no leases or other agreements for occupancy in effect with respect to the Property other than agricultural leases which Seller has the right to terminate. Seller shall deliver exclusive possession of the Property to Purchaser at Settlement free and clear of all claims of tenants and others claiming possessory rights.

O. With the exception of this Agreement, no person or entity has a right of first refusal, option to purchase, or other right to purchase the Property pursuant to an agreement to which Seller is a party.

P. Seller has not filed for bankruptcy or other proceeding for the protection of debtors under state or federal law and that no similar involuntary proceeding has been filed or threatened against it.

Q. No part of the Property is subject to a special appraisal method that allows for the appraisal of the Property at less than its market value.

11. **Conditions Precedent.**

A. **Conditions for the Protection of Purchaser.** It shall be a condition precedent to Purchaser's obligation to purchase the Property and to perform its other obligations hereunder that each and every one of the conditions set forth under this Section 11(A) shall have been satisfied at or before Settlement, as hereafter provided, except for any such condition waived in writing by Purchaser, in whole or in part.

1. Between the Effective Date and the Settlement Date, the condition of the Property shall not have changed from the condition thereof as of the date of this Agreement, normal wear and tear excepted. Seller shall deliver vacant possession of the Property at Settlement. Prior to the Settlement Date, Seller shall remove all personal property, equipment and crops (whether or not harvestable for sale) from the Property.

2. Seller shall have delivered to Purchaser, on or before the Settlement Date, all of the documents and other information required of it pursuant to the provisions of this Agreement.

3. All of the covenants, representations, warranties, and agreements of Seller set forth in this Agreement shall be true, correct and complete as of the Effective Date and as of the Settlement Date. Notwithstanding that certain of Seller's representations and warranties may be limited to the extent of Seller's knowledge, the conditions precedent to Purchaser's obligation to consummate Settlement set forth in this Subparagraph shall not be so limited, and the satisfaction of such conditions shall depend upon the actual correctness on the Settlement Date of the matters stated in all such representations and warranties.

4. On or prior to the Settlement Date, Seller shall have performed, satisfied, or complied with all of the terms, provisions, covenants, conditions, and agreements of this Agreement.

5. Seller's title to the Property shall be as required by Section 6(B).

6. Seller [Purchaser] shall have created and subdivided the Property into a separate and legal lot of a minimum of 90 acres and maximum of 95 acres in a location and configuration designated by Purchaser upon the exercise of the Option, or as may be otherwise mutually agreed upon by Purchaser and Seller.

B. **Purchaser's Right to Extend Settlement Date.** In the event that any of the conditions of Settlement set forth in this Agreement is not satisfied as of the Settlement Date, Purchaser shall have the option to extend the time for Settlement by a period not in excess of thirty (30) days upon written notice to Seller to allow Seller additional time to fully satisfy any unsatisfied condition.

12. **Condemnation and Risk of Loss.**

A. **Condemnation.** In the event of condemnation or receipt of notice of condemnation of all of the Property, or any portion thereof, prior to the Settlement Date, Seller shall give written notice to Purchaser promptly after Seller receives such notice or otherwise learn of such condemnation or conveyance in lieu thereof. If all of the Property is, or is to be, condemned, this Agreement shall terminate immediately, and Seller shall immediately return the Option Fee to the Purchaser. If less than all of the Property is, or is to be, condemned or taken, Purchaser, at its option, may elect either (a) to terminate this Agreement effective upon written notice to Seller not later than thirty (30) days after receipt of notice from Seller and Seller shall immediately return amount of the Option Fee to the Purchaser minus the amount of the Initial Option Fee, which shall be retained by Seller, or (b) not to terminate this Agreement and proceed to Settlement. If Purchaser elects not to terminate this Agreement, Purchaser shall be entitled to receive, and Seller shall assign to Purchaser all of Seller's interest in, all of the condemnation proceeds and all interest thereon.

B. **Risk of Loss.** The risk of loss or damage to the Property prior to the Settlement, by casualty, act of God or any other event, shall be upon Seller.

13. **Covenants.**

A. **Condition of the Property.** Subject to the provisions of Section 12 hereof concerning condemnation, Seller, at Seller's expense, shall maintain the Property in at least as good condition as on the date hereof. Seller shall not diminish the quality or quantity of maintenance and upkeep services heretofore provided to the Property.

B. **Operation Until Settlement.** Between the Effective Date and the Settlement Date, Seller shall:

1. Not enter into any leases or other agreements for occupancy of the Property, or any part thereof, without Purchaser's prior written consent, which may be withheld in Purchaser's sole discretion.

2. Not transfer, convey, hypothecate, create a security interest in or lien upon, or otherwise dispose of any of the Property;

3. Comply with all federal, state and municipal laws, ordinances, and regulations relating to the Property;

4. Comply with all the terms, conditions and provisions of all agreements and other contractual arrangements referred to herein, or any other documents, agreements or instruments affecting the Property, make all payments required to be paid thereunder and suffer no default therein;

5. Promptly give written notice to Purchaser of the occurrence of any event materially affecting the Property, the Agreement, or the substance of the representations and warranties made hereunder; and

6. Operate and maintain the Property only in the ordinary course of business as currently conducted by Seller on the Property, if any; provided that the Seller shall not bring or store, or permit others to bring or store, any soil or fill material onto the Property that did not exist on the Property as of the Effective Date. Seller shall have the continued right to use the Property for this purpose between the Effective Date and the Settlement Date; provided that:

(a) Purchaser and its employees, representatives, and consultants shall have access to the Property after giving twenty-four (24) hour verbal or written notice to the Seller prior to entry and,

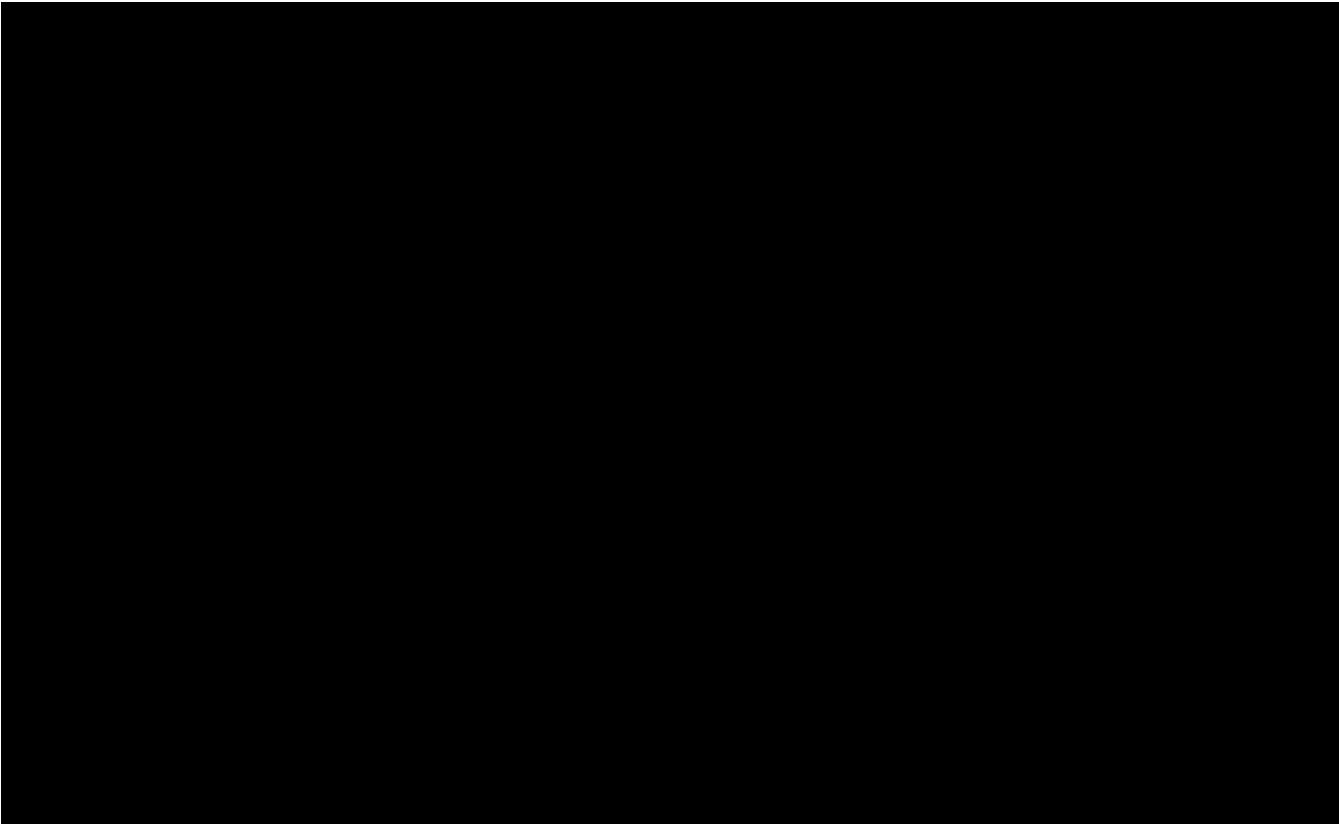
(b) Seller's use shall terminate upon the Settlement Date.

C. Other Acts or Omissions. Except as otherwise permitted herein, from the Effective Date until the Settlement Date, Seller shall not take any action or fail to take any action that would have a material adverse effect on the Property or Purchaser's ability to develop the Property after the Settlement Date, or that would cause any of the representations and warranties contained in Section 10 hereof to be untrue as of Settlement.

14. **Default.**

A. Purchaser's Rights. If any condition for the protection of Purchaser set forth in any provision of this Agreement cannot or will not be satisfied prior to Settlement, or upon the occurrence of any other event that would entitle Purchaser to terminate its obligations under this Agreement, Purchaser, at its option, may either (a) terminate this Agreement, in which event the parties shall have no further obligations or liabilities to one another hereunder except for those obligations specifically stated herein that survive termination of the Agreement, and the Option Fee shall be returned promptly to Purchaser by Seller, or (b) proceed to purchase the Property as provided herein. Notwithstanding the foregoing, Purchaser shall retain all remedies at law and in equity with respect to any misrepresentation or breach of warranty by Seller or with respect to any failure by Seller to perform its obligations hereunder, including, but not limited to, the right to specific performance of this Agreement. Purchaser shall be entitled to recover from Seller all of its costs and expenses, including attorneys' fees, incurred in connection with any legal action brought in connection with this subparagraph. This subparagraph does not limit Purchaser's remedies for any breach by Seller of obligations that survive the termination of this Agreement.

B. Seller's Rights. If, prior to Settlement, Purchaser fails to perform any obligation of Purchaser under this Agreement for any reason other than the failure to occur of a condition precedent to Purchaser's obligations hereunder, Seller shall give Purchaser prompt written notice of such default or failure, and, after thirty (30) days written notice thereof if Purchaser fails to cure such breach within such time ("**Cure Period**"), Seller shall be entitled to terminate this Agreement and retain the Option Fee as liquidated damages as described below.



15. **Brokers.** Each party hereto represents to the other that there is no real estate broker involved in this transaction. Except as set forth in the foregoing sentence each party represents to the other that it has not made any agreement or taken any action which may cause any broker, agent or other person to become entitled to a brokerage or other fee or commission as a result of the transactions contemplated by this Agreement. Each party does hereby agree to indemnify and hold harmless the other from and against any and all costs, debts, damages, and claims, including, costs and reasonable attorneys' fees for pre-trial, trial or appellate matters in defending against any claims for brokerage commission or finder's fees arising through it relative to this transaction. The representations, warranties and agreements contained in this section shall survive the Settlement of this transaction.

16. Intentionally deleted.

17. **General Provisions.**

A. **Completeness and Modification.** This Agreement constitutes the entire agreement between the parties as to the transactions contemplated herein and supersedes all prior and contemporaneous discussions, understandings and agreements between the parties.

B. **Assignments.** Purchaser may not assign its rights hereunder without the prior written consent of Seller, which consent shall not unreasonably be withheld, delayed or conditioned; provided, however, that Purchaser, without the consent of Seller, may assign, in

whole or in part, its rights hereunder to any entity controlling, controlled by, or under common control with Purchaser.

C. Survival. All of Seller's representations, warranties, covenants, agreements and indemnifications made in, or pursuant to, this Agreement shall survive Settlement and delivery and recordation of the Deed.

D. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Kentucky. If the parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, they agree that such dispute shall be resolved in the circuit court located in the County. 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 Agreement and is hereby waived. Notwithstanding anything to the contrary in this Agreement, neither party shall be entitled to recover punitive or exemplary damages, however arising, whether in contract, in tort, or otherwise, under or with respect to any action taken in connection with this Agreement.

E. Severability. If any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to other persons or circumstances, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

F. Costs.

G. Notices. Any notice expressly provided for or permitted under this Agreement shall be in writing, shall be given either manually or by mail, overnight delivery service, such as UPS, FedEx, or Purolator, and shall be deemed sufficiently given when received by the party to be notified at its address set forth below, or three (3) business days after being mailed by registered or certified mail, postage prepaid, return receipt requested, or one (1) business day after being sent by such overnight delivery service, addressed to such party at such address, whichever shall first occur. Any party and any representative designated below, by notice to the other party, may change its address for receiving such notices.

If to Seller: Mary Ann Sugg

If to Purchaser: Sebree Solar, LLC
700 Universe Blvd.
Juno Beach, FL 33408

Attention: Land Services Administration

H. Incorporation by Reference. All of the Exhibits attached or referred to herein and all documents in the nature of such Exhibits are by this reference incorporated herein and made a part of this Agreement.

I. Interpretation. The section and paragraph headings used herein are for reference and convenience only and shall not enter into the interpretation hereof. Wherever used herein, the singular number shall include the plural and vice versa, and the use of any gender shall include all other genders, all as the context may require.

J. Business Days. If any action is required under the provisions of this Agreement to occur by a date that is a Saturday, Sunday or legal holiday, such date shall be extended to the first day thereafter that is not a Saturday, Sunday or legal holiday.

K. Waiver. No waiver or purported waiver by Purchaser of any contingency contained herein shall be valid against Purchaser unless it is in writing and signed by Purchaser.

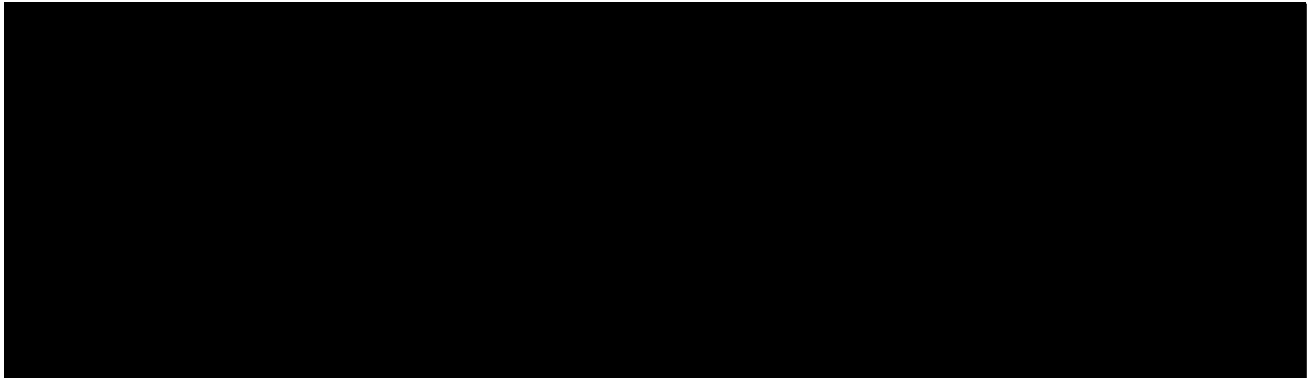
L. Construction. The parties acknowledge that they and their counsel have reviewed this Agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

M. Memorandum of Option. Within ten (10) days of the Effective Date, Seller shall execute and deliver to Purchaser a Memorandum of this Agreement, which shall be recorded by Purchaser at the expense of Purchaser. In the event Seller fails to execute and deliver the Memorandum within ten (10) days of the Effective Date, Seller hereby authorizes the Purchaser to execute and record the Memorandum without the Seller's signature. In the event this Agreement is terminated by Purchaser or by Seller as a result of a default by Purchaser, in accordance with the terms of this Agreement and after written request by Seller, Purchaser shall execute a recordable document provided by Seller discharging the Memorandum of Option.

N. Confidentiality. Seller shall not disclose the fact or substance of this Agreement to any other persons or entities, other than Seller's counsel, tax advisor, or other consultants regarding this matter, unless and until Purchaser shall exercise its rights hereunder. Recordation of the Memorandum of Option contemplated under this Agreement shall not constitute a waiver of Purchaser's right to confidentiality.

O. Effective Date. The term "**Effective Date**" or such other similar term, shall be the last date on which a duplicate original of this Agreement has been executed by both Purchaser and Seller.

P. Time is of the Essence. The parties hereby agree that time is of the essence with respect to performance of each of the parties' obligations under this Agreement.



R. Amendments. The terms of this Agreement may be waived, modified and amended only by and instrument in writing duly executed by Seller and Purchaser.


S. Counterparts. This Agreement may be executed in any number of counterparts and it shall be sufficient that the signature of each party appear on one or more such counterparts. All counterparts shall collectively constitute a single agreement. A facsimile or electronic signature to this Agreement or any amendment hereto shall be sufficient to prove the execution hereby by any person.

T. Waivers. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal to the period of the delay.

[Signatures on Next Page]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written below.

Seller:



Mary Ann Sugg

Date Signed: 12/28/21

Purchaser:

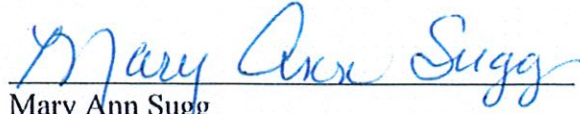
Sebree Solar, LLC
A Delaware limited liability company

By: _____
Anthony Pedroni, Vice President

Date Signed: _____

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written below.

Seller:




Mary Ann Sugg

Date Signed: 12/28/21

Purchaser:

Sebree Solar, LLC
A Delaware limited liability company

By: 

Anthony Pedroni, Vice President

Date Signed: _____

EXHIBIT A

Legal Description of Property

Parcel 1

TRACT 1:

A certain tract of land lying one mile west of Robards, Ky., and bounded as follows: Beginning at a stake in B. W. McMullins' line and running N 27-3/4 E 2770 feet to a stake, thence N 65-1/4 W 1205 feet to a stake north of branch, thence S 23-1/4 W 640 feet to margin of road; thence S 22 W 2,000 feet to corner of church lot; thence S 58-5/6 W 958 feet to the beginning, containing 65.61 acres, after deducting cemetery and church lot of 1.51 acres.

Parcel 2

TRACT 2:

The following property in Henderson County, Ky., viz: A tract or parcel of land being the south end of J. W. Oteys old home farm beginning at a large oak tree in the edge of the field, corner to the Curry land also corner to the north portion of this farm; thence W 138 poles and 13 links to a stake from which an oak bears S 82 E percimon bears S 70 E corner to N, part this farm in line thence with said line S 19 W 48 poles and 3 links to a stake corner to Higginson in J. S. McMullins line; thence S 86 E 40 poles and 20 links to a stake corner

to J. S. McMullins; thence S 24 W 28 poles to a stake corner to S. H. McMullins in J. S. McMullins line; thence S 66-1/2 E 124 poles and 12 links to a wild cherry tree in S. H. McMullins line; thence N 9.8.86 poles to a rock corner to Hattie Majors; thence N 7 W 33 poles and 3 links to the beginning, containing 78-60/100 acres.

LESS AND EXCEPT such portions of Parcel 1 Tract 1, and Parcel 2 Tract 2, if any, conveyed in deed recorded in Book 622, pages 903 through 907, inclusive, and described as follows:

A certain tract or parcel located approximately 1,500 feet east of Kentucky Highway 1299 and 1.5 miles northwest of the City of Robards, in Henderson County, Kentucky and being more specifically described as follows:

Unless stated otherwise, any monument referred to herein as a "set iron pin" is a 1/2" diameter rebar, 18" in length set with an orange plastic cap stamped "PLS #2939". All bearings stated herein are referred to the 1983 NAD Kentucky South Zone coordinate system.

Beginning at a 30" oak tree found with two blazes on the south side, said oak tree being located at the southeast corner of the Dennis Nunn property described in Deed Book 601 Page 142 at the Henderson County Court Clerk's Office, thence with the east line of said Nunn property, North 25 DEGREES 29 MINUTES 46 SECONDS East a distance of 862.71 feet to an iron pin set in the south line of the James Green property described in Deed Book 474 Page 458; thence with the south line of said Green property, South 81 DEGREES 31 MINUTES 43 SECONDS East, a distance of 1549.14 feet to an iron

pin set in the west line of the Leo King Farm, LLC property described in Deed Book 610 Page 673; thence with the west line of said Leo King Farm, LLC property, South 04 DEGREES 40 MINUTES 12 SECONDS East, a distance of 546.48 feet to an iron pin set at the northwest corner of the Leo Mattingly, Jr. property described in Deed Book 608 Page 536; thence with the west line of said Mattingly property, South 13 DEGREES 54 MINUTES 39 SECONDS West, a distance of 24.64 feet to a point located in the centerline of a large ditch; thence with the centerline of said large ditch and severing Tract 2 of the Mary Ann Sugg property described in Deed Book 549 Page 1039, of which this description is a part, the following eleven (11) calls:

- 1) South 86 DEGREES 15 MINUTES 04 SECONDS West, a distance of 77.92 feet to a point located in the centerline of said large ditch;
- 2) North 87 DEGREES 42 MINUTES 08 SECONDS West, a distance of 135.23 feet to a point located in the centerline of said large ditch;
- 3) North 86 DEGREES 28 MINUTES 26 SECONDS West, a distance of 74.62 feet to a point located in the centerline of said large ditch;
- 4) South 39 DEGREES 06 MINUTES 20 SECONDS West, a distance of 153.33 feet to a point located in the centerline of said large ditch;
- 5) South 47 DEGREES 34 MINUTES 08 SECONDS West, a distance of 122.36 feet to a point located in the centerline of said large ditch;
- 6) South 68 DEGREES 12 MINUTES 17 SECONDS West, a distance of 180.38 feet to a point located in the centerline of said large ditch;
- 7) South 65 DEGREES 11 MINUTES 36 SECONDS West, a distance of 144.66 feet to a point located in the centerline of said large ditch;
- 8) South 60 DEGREES 32 MINUTES 46 SECONDS West, a distance of 319.67 feet to a point located in the centerline of said large ditch;
- 9) North 89 DEGREES 42 MINUTES 10 SECONDS West, a distance of 180.80 feet to a point located in the centerline of said large ditch;
- 10) North 85 DEGREES 48 MINUTES 58 SECONDS West, a distance of 849.48 feet to a point located in the centerline of said large ditch;
- 11) South 71 DEGREES 19 MINUTES 53 SECONDS West, a distance of 17.30 feet to a point located in the north line of Tract 1 of

said Mary Ann Sugg property;

thence continuing with the center line of said large ditch and severing said Tract I, of which this description is a part, the following two (2) calls:

- 1) South 71 DEGREES 19 MINUTES 53 SECONDS West, a distance of 43.37 feet to a point located in the centerline of said large ditch;
- 2) North 48 DEGREES 06 MINUTES 19 SECONDS West, a distance of 42.63 feet to a point located in the east line of the James Riley property described in Deed Book 621 Page 491;

thence with the east line of said Riley property the following two (2) calls:

- 1) North 26 DEGREES 14 MINUTES 19 SECONDS East, a distance of 21.97 feet to an iron pin set at a bend in the east line of said Riley property;
- 2) North 27 DEGREES 59 MINUTES 58 SECONDS East, a distance of 462.00 feet to the point of beginning and containing 43.18 acres.

This description was prepared from a physical survey conducted under the direction of Bruce K. Bailey, PLS #2939 of Bailey Surveys, Inc. on January 24, 2017.

This conveyance is subject to easements, restrictions, rights of way and mineral reservations of record.

See also the plat whereby said 43.18 acres has been consolidated with existing 56.61 acres of record in Plat Book 9, page 390A, making a total of 99.79 acres, more or less, by the Sugg & Nunn Subdivision and Consolidation plat, of record in Plat Book 10, page 186, Henderson County Clerk's Office.

Being a portion of the same property conveyed to Kenneth W. Sugg by deed from Anita Sugg, unmarried widow, dated July 9, 2006, of record in Deed Book 549, page 1039, in the Henderson County Clerk's Office. Kenneth W. Sugg, aka Kenneth Wayne Sugg, died testate a resident of Henderson County, Kentucky, on March 12, 2007. By order of the Henderson District Court his Will was admitted to probate on May 19, 2007, in Case No. 07-P-00085, and filed of record in the aforesaid Clerk's Office in Will Book 35, page 737, with Mary Ann Sugg, the decedent's widow, appointed Executrix of the

Estate of Kenneth Wayne Sugg. Under Article IV of the aforesaid Will, Mary Ann Sugg was devised the subject property.

QLA ID: 8063

EXHIBIT B

Form of Special Warranty Deed

Mail Tax Bill in-care-of:

[Insert Name/Address of Grantee preferred contact for payment of taxes]

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is made and entered into effective as of the ___ day of _____, 20__, by and between: (i) _____, a _____ limited liability company, whose address is _____ ("**Grantor**"), and (ii) _____, a _____ limited liability company, whose address is _____ ("**Grantee**").

W I T N E S S E T H:

That for and in consideration of the total sum of _____ (\$ _____), the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby bargain, grant, sell and convey unto Grantee, in fee simple, with covenant of SPECIAL WARRANTY, certain real property, together with all improvements located thereon and all appurtenances thereunto belonging, situated in _____ County, Kentucky (the "**Property**"), more fully described on **Exhibit A**.

BEING the same property acquired by _____ by Deed dated _____, 20__, of record in Deed Book _____, Page _____, in the _____ County Clerk's office.

TO HAVE AND TO HOLD, in fee simple, all of the Property, together with all the rights, privileges, appurtenances and improvements thereunto belonging, unto Grantee, its successors and assigns, forever.

Grantor hereby specially covenants with Grantee, its successors and assigns, that Grantor will forever warrant and defend all of the Property so granted to Grantee, its successors and assigns, against every person lawfully claiming the same or any part thereof by, through or under Grantor, but not otherwise; and that the Property is free and clear of all taxes, liens and encumbrances, except (a) governmental laws, rules, regulations and restrictions affecting the Property, (b) the lien of current ad valorem taxes is not yet due and payable, and (c) all easements and restrictions of record.

As required by KRS 382.135, Grantor hereby certifies, and Grantee appears herein solely for the purpose of certifying, that the consideration stated above is correct.

IN TESTIMONY WHEREOF, witness the signatures of Grantor and Grantee effective as of the day, month and year first above written.

GRANTOR:

By: _____

Title: _____

COMMONWEALTH OF KENTUCKY)
COUNTY OF _____) SS
_____)

The foregoing instrument was acknowledged, subscribed and sworn to before me this _____ day of _____, 20__, by _____, acting in his/her capacity as _____ of _____, a _____ limited liability company, for and on behalf of said limited liability company.

My Commission expires: _____.

NOTARY PUBLIC

Notary ID #: _____

(SEAL)

GRANTEE:

By: _____

Title: _____

STATE OF _____)
) **SS**
COUNTY OF _____)

The foregoing instrument was acknowledged, subscribed and sworn to before me on _____, ____, 20__ by _____, by _____, acting in his/her capacity as _____ of _____, a _____ limited liability company, for and on behalf of said limited liability company, the Grantee.

[S E A L]

Notary Public, State of _____

My Commission Expires: _____

This instrument prepared by:

[Insert name, address and telephone number
of attorney; attorney must sign original]

ACCEPTANCE BY ESCROW AGENT

The undersigned Escrow Agent hereby acknowledges that on _____, [*insert year*] the undersigned received a fully executed duplicate original of the foregoing Real Estate Purchase Option Agreement between [*owner*], [*marital status or entity info*], as Seller and Boulevard Associates, LLC, a Delaware limited liability company, as Purchaser. Escrow Agent agrees to act as the Escrow Agent under this Agreement in accordance with the instructions provided therein, and to comply with these instructions. Escrow Agent has assigned Escrow Number _____ to the Property for that purpose.

By: _____

Name: _____

Title: _____

Date: _____

Kentucky

SOLAR LEASE AND EASEMENT AGREEMENT

1. **Parties.** This Solar Lease and Easement Agreement ("**Agreement**") is made and entered as of the 11 day of August, 2020 ("**Effective Date**"), by and between Stephen Harold Spencer, a single person ("**Owner**") and Boulevard Associates, LLC, a Delaware limited liability company ("**Operator**"), which are sometimes individually referred to as a "**Party**" and collectively as the "**Parties**".

2. **Project.** This Agreement relates to the solar-powered electrical power generation and transmission project known as the "Sebree Solar Energy Center" to be located in Henderson County, Kentucky ("**Project**"), which may be wholly or partially located on the Owner's property legally described on the attached **Exhibit A** to this Agreement ("**Owner's Property**"). Upon Operator's exercise of the Option (as defined below), the Project shall include (i) the Lease of Owner's Property described in Section 4, (ii) the Easements referenced in Section 5 that are located on the Owner's Property, and (iii) the Improvements referenced in Section 8 to be constructed on Owner's Property. The Lease, Easements and Improvements are sometimes collectively referred to as the "**Operator Property**".

3. **Option.** Owner grants to Operator an exclusive option ("**Option**") to acquire the Lease and Easements referenced in Sections 4 and 5 in accordance with the following terms and conditions. Operator shall be entitled to acquire the Lease and the Easements in their entirety or in part, as Operator deems appropriate.

3.1 **Option Term.** The period during which Operator may exercise the Option shall be for a term of four (4) years, commencing on the Effective Date ("**Option Term**").

3.2 **Option Payment.** As consideration for the granting of the Option, Operator agrees to pay Owner the Option Payment set forth in **Exhibit D**.

3.3 **Use of Owner's Property.** During the Option Term, Operator and its employees, agents and contractors shall have a right to enter upon the Owner's Property and the right of ingress and egress over and across the Owner's Property for the purposes of (i) surveying the Owner's Property; (ii) performing such other tests and studies as Operator may desire in connection with the Option, including, without limitation, environmental, avian and cultural resource assessments, and geotechnical, foundation and soil tests, provided that such activities do not unreasonably interfere with Owner's use of the Owner's Property; and (iii) installing, maintaining, operating, inspecting and removing one or more weather related instruments ("**Weather Instrument**") and fencing of said Weather Instrument and including the performance of all tests and studies associated therewith. Owner shall not permit any other individual or entity except Operator or its affiliates to install a Weather Instrument on Owner's Property.

3.4 **Right to Grant Option.** Owner warrants and represents to Operator that (i) the statements in Section 9 concerning Owner's title to the Owner's Property are true and correct; (ii) Owner has the authority to grant this Option to Operator without the consent or approval of any other party; and (iii) there are no other existing options, rights of first refusal, contracts to

4.6 **Telecommunication Right.** Operator leases Owner's Property for Operator to construct, operate, maintain, replace, relocate or remove Telecommunication Facilities on and under the Owner's Property.

4.7 **Weather Instrument Right.** Operator leases Owner's Property in order to construct, operate, replace, relocate, remove, and maintain a Weather Instrument and the appurtenant Collection Facilities on Owner's Property.

4.8 **Battery Facilities Right.** Operator leases Owner's Property in order to construct, operate, replace, relocate, remove, and maintain one or more Battery Facilities on Owner's Property.

5. **Grant of Easements.** Upon the exercise of the Option by Operator, Owner grants to Operator, and Operator accepts from Owner, for the Lease and Easement Term referenced in Section 6.1, the following easements over and across the Owner's Property in accordance with the terms and conditions of this Agreement. The following easements are for the benefit of Operator and Operator's agents, contractors and employees and located on the Owner's Property and are collectively referred to as the "**Easements**".

5.1 **Sun Non-Obstruction Easement.** Owner grants Operator an irrevocable, exclusive easement for the right and privilege to use, maintain and capture the free and unobstructed sunlight over and across the Owner's Property. Owner shall not engage in any activity on Owner's Property or any other neighboring property owned by Owner that might interfere with the sunlight direction over any portion of Owner's Property; cause a decrease in the output or efficiency of any Solar Panel or Weather Instrument; or otherwise interfere with Operator's operation of the Project or exercise of any rights granted in this Agreement (collectively "**Interference**"). This grant of the easement expressly includes the right of Operator to enforce Operator's rights, including the physical removal of trees or structures (except existing trees and structures) causing Interference to the Project contemplated by Operator. Operator shall notify Owner before making any such removals.

5.2 **Effects Easement.** Owner grants to Operator an easement over Owner's Property for visual, view, light, flicker, noise, shadow, vibration, electromagnetic, electrical and radio frequency interference, and any other effects attributable to the Project located on the Owner's Property.

6. **Term.** The term of this Agreement ("**Term**") includes the Option Term referenced in Section 3.1, the Initial Lease and Easement Term as described in Section 6.1.1 and the Extended Lease and Easement Term as described in Section 6.1.2 (together, the Initial Lease and Easement Term and the Extended Lease and Easement Term, if applicable, is defined as the "**Lease and Easement Term**").

6.1 **Lease and Easement Term.**

6.1.1 **Initial Lease and Easement Term.** The initial term of the Lease and Easements shall commence on the date specified by Operator in the Option Notice ("**Commencement Date**"). The initial term of the Lease and Easements shall end thirty (30)

result of the occurrence, each Party shall give prompt written notification thereof to the other Party.

6.2 **Termination by Operator.** Provided Operator is not in default under any term of this Agreement, Operator, at its option, shall have the right to terminate this Agreement at any time during the Term of the Agreement, as to all or any part of the Operator Property. Termination shall be effective thirty (30) days after written notice of such termination to Owner. If Operator's notice is a full termination of the Operator Property, the Parties shall be relieved of all further duties and obligations under this Agreement, other than (i) the payment of any accrued and unpaid obligations owed by either Party as of the date of termination; (ii) the removal of the Improvements by Operator pursuant to Section 8.11; and (iii) any other obligations and liabilities that are expressly stated in this Agreement to survive such termination. Upon any such partial termination by Operator, the Parties shall be relieved of all further duties and obligations under this Agreement with respect to the portion thereof terminated by Operator, subject to the obligations and liabilities referenced in items (i) through (iii) above that shall continue to be applicable to the terminated portion of this Agreement. The Parties agree to execute an amendment to this Agreement evidencing such partial termination.

7. **Payments.** If Operator exercises the Option referenced in Section 3, Operator agrees to pay Owner the amounts set forth in **Exhibit D** as consideration for the Lease, Easements and Operator's other rights and interests in the Owner's Property.

8. **Improvements.** Operator shall have the right, at its sole cost and expense, to construct, install, maintain, use, operate, repair, replace, relocate and remove all facilities, structures, equipment, machinery, wires, conduit, cables, poles, materials and property of every kind and character required for the construction and operation of portions of the Project on the Owner's Property, including, but not limited to, the Solar Panels, Collection Facilities, Substations, Telecommunication Facilities, Weather Instruments, Roadway Improvements and Battery Facilities referenced in Sections 8.1 through 8.7 (collectively, the "**Improvements**").

8.1 "**Solar Panels**" shall mean any photovoltaic energy system designed for the generation of electrical power from the collection of sunlight, including without limitation, the photovoltaic panels, foundations, support structures, braces and related equipment.

8.2 "**Collection Facilities**" shall mean all Improvements whose purpose is to deliver electrical power generated by the Solar Panels to an electrical power grid or other system, including without limitation transformers, overhead and underground electrical collection lines, telecommunication lines, splice boxes and interconnection facilities.

8.3 "**Substations**" shall mean electrical lines, meters, monitoring and control equipment, switches, transformers, all structures, equipment, enclosures, fencing, security devices, and other electrical and communications equipment necessary to condition and increase the voltage of electricity generated by the Project to make it suitable for transmission on, and to deliver it to, Collection Facilities connected to an electric power grid or other system.

8.4 "**Telecommunication Facilities**" shall mean all Improvements whose purpose is to provide telecommunication services solely relating to the Project or any of Operator's solar

Agreement, so long as the nature and extent of any such relocated or rerouted Improvements are not materially different and impose no materially greater burden on the Owner's Property than the original locations or routes, and so long as Operator takes commercially reasonable efforts to minimize disruption or inconvenience to Owner.

8.11 **Removal of Improvements.** Upon full or partial termination of any of the Lease Rights or Easements, Operator shall remove all Improvements and restore the area formerly occupied by the Improvements to substantially the same physical condition that existed immediately before the construction of the Improvements (the "**Removal Obligations**"). At Owner's request, all or any part of the Roadway Improvements may be left for use by Owner.

9. **Ownership and Title Matters.** Owner warrants and represents to Operator, both as of the Effective Date, and as of the Commencement Date as follows:

9.1 **Authority.** Owner represents and warrants that it is the holder of fee simple title and is the sole owner of the Owner's Property and has the unrestricted right and authority to sign this Agreement and to grant Operator the Lease and Easements and other rights granted in this Agreement. When signed by both Parties, this Agreement constitutes a valid and binding agreement enforceable against Owner in accordance with its terms.

9.2 **Other Agreements.** The Owner's Property is not subject to any other agreements, options, rights of first refusal or other prior right of any party to purchase, lease or acquire easements in the Owner's Property, or create any prior claim or right that would preclude or interfere with Operator's rights and interests under this Agreement and the Lease and Easements.

9.3 **Minerals.** Except as disclosed by Owner to Operator at the time of the execution of this Agreement by Owner, Owner owns all of the oil, gas and other minerals, and all rights thereto as on or under the Owner's Property.

9.4 **Owner Mortgage.** Except as disclosed by Owner to Operator at the time of the execution of this Agreement by Owner, there are no mortgages encumbering the Owner's Property ("**Owner Mortgage**").

9.5 **Notice and Opportunity to Cure.** If there is an Owner Mortgage encumbering Owner's Property and Owner receives from the holder thereof any notice that payments are overdue, Owner shall notify Operator and each Operator Mortgagee (as defined at Section 13.1) by sending a copy of such overdue payment notice to Operator by the earlier of (i) five (5) days after receipt, or (ii) three (3) business days prior to the date by which a default under or in respect of such Owner Mortgage could occur. If Operator or any Operator Mortgagee determines that it would be in Operator's interest to make such payments to Owner Mortgagee on Owner's behalf, whether as a result of receiving such notice or otherwise, Operator shall have the right to make such payments and to credit the payments so made against the Annual Installment Payment next due under the Agreement.

9.6 **Subordination, Non-Disturbance & Attornment Agreement.** If there is an Owner Mortgage encumbering Owner's Property, Owner shall cooperate with Operator to obtain

equipment during the installation and construction of the Improvements; development and operation of communications systems; and site tours of the Project for visitors and other interested parties.

11.2 **No Required Installation or Operation.** Nothing in this Agreement shall be interpreted as imposing on Operator any obligation to install Solar Panels or other Improvements on the Owner's Property, or to operate the Project on the Owner's Property. Operator shall have the sole discretion to determine if and when any Solar Panels and other Improvements may be constructed on Owner's Property, and if and when to commence the operation of the Project on the Owner's Property.

11.3 **Permits and Approvals.** Operator shall be responsible, at its sole cost and expense, for obtaining any governmental permits and approvals necessary for the construction and operation of the Project and the construction and operation of the Improvements. Owner shall cooperate with Operator as necessary to obtain any governmental or utility approvals or permits, including, without limitation, signing any applications for such approvals, provided that Owner shall not incur any loss in income, expense, obligation or liability with respect to Operator obtaining such permits or approvals.

11.4 **Compliance with Laws.** Operator shall comply in all material respects with valid laws applicable to the Owner's Property and the Operator Property. Operator shall have the right, in its sole discretion and at its sole expense, in Operator's name to contest the validity or applicability to the Owner's Property and the Operator Property of any law, ordinance, statute, order, regulation, property assessment or the like made by any governmental agency or entity. Operator shall control any such contest and Owner shall cooperate with Operator in every reasonable way in such contest, provided that Owner shall incur no expense, obligation or liability with regard to such contest.

11.5 **Care and Appearance.** Operator, in its exercise of the lease, easement and other rights granted hereunder shall, at all times, maintain the Owner's Property and the Improvements in a reasonably neat, clean and presentable condition. Operator shall not willfully or negligently damage or destroy the Owner's Property and shall keep the Owner's Property clean and free of debris created by Operator, its contractors, or others brought on to the Owner's Property by Operator. Operator shall not use the Owner's Property for storage, except for materials, construction equipment and vehicles directly associated with construction or maintenance of the Improvements on the Owner's Property or adjacent properties that are part of the Project.

11.6 **Fences and Gates.** At Owner's request, Operator shall repair or replace any fences, gates or cattle guards damaged or removed in connection with Operator's activities on the Owner's Property. Fences removed from the Owner's Property, if replaced, shall be re-built by Operator at its expense in mutually agreeable locations. All fence repair and construction shall be substantially similar to the construction of existing fences and cattle guards on Owner's Property. Any gates opened for access to Owner's Property by either Party shall be closed immediately after passing through so that livestock may not pass through. Once completed, all replacement fences, gates and cattle guards shall be owned and maintained by Owner. Upon abandonment or termination of the rights granted to Operator in this Agreement, any fences, gates and cattle guards installed by Operator shall remain and become the property of Owner.

13. **Mortgage of Operator Property.**

13.1 **Right to Mortgage.** Operator may, upon written notice to Owner, but without requiring Owner's consent or approval, mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Agreement and the Operator Property. These various security interests in all or a part of this Agreement and the Operator Property are collectively referred to as an "**Operator Mortgage**" and holder of such security interest, an "**Operator Mortgagee**". Any Operator Mortgagee shall use the Operator Property only for the uses permitted under this Agreement. Whenever Operator has granted a security interest under this Section 13, it will give Owner notice of the Operator Mortgage (including the name and address of the Operator Mortgagee for notice purposes) to Owner within thirty (30) days; provided that failure to give this notice shall not constitute a default under this Agreement, but rather shall only have the effect of not binding Owner to provide such Operator Mortgage notice until the Operator and its address is given to Owner.

13.2 **Notice of Default and Opportunity to Cure.** As a precondition to exercising any rights or remedies related to any alleged default by Operator under this Agreement, Owner shall give written notice of the default to each Operator Mortgagee at the same time it delivers notice of default to Operator, specifying in detail the alleged event of default and the required remedy. Each Operator Mortgagee or its designee shall have the right, but not the obligation, to cure any default as Operator, and/or the right, but not the obligation, to remove any Improvements or other property owned by Operator or such Operator Mortgagee located on the Owner's Property to the same extent as Operator. The cure period for any Operator Mortgagee shall be the later of (i) the end of the Operator cure period under Section 18; (ii) thirty (30) days after such Operator Mortgagee's receipt of the default notice; or (iii) if applicable, the extended cure period provided for in Section 13.3. Failure by Owner to give an Operator Mortgagee notice of default shall not diminish Owner's rights against Operator, but shall preserve all rights of the Operator Mortgagee or its designee to cure any default and to remove any Improvements or other property of Operator or the Operator Mortgagee located on the Owner's Property.

13.3 **Extended Cure Period.** If any default by Operator under this Agreement cannot be cured without the Operator Mortgagee obtaining possession of all or part of the Operator Property, then any such default shall be deemed remedied if an Operator Mortgagee: (i) within sixty (60) days after receiving notice from Owner as set forth in Section 13.2, acquires possession of all or part of the Operator Property, or begins appropriate judicial or nonjudicial proceedings to obtain the same; (ii) diligently prosecutes any such proceedings to completion; and (iii) after gaining possession of all or part of the Operator Property performs all other obligations as and when the same are due in accordance with the terms of this Agreement. If an Operator Mortgagee is prohibited by any court or by operation of any bankruptcy or insolvency

Mortgagee or other purchaser at a foreclosure sale prior to rejection or termination of this Agreement); and (iii) shall include that portion of the Operator Property in which Operator or such other Operator Mortgagee or other purchaser at a foreclosure sale had an interest on the date of rejection or termination.

13.7.2 If more than one Operator Mortgagee makes a written request for a New Agreement pursuant to this provision, the New Agreement shall be delivered to the Operator Mortgagee requesting such New Agreement whose Operator Mortgage is prior in time, and the written request of any other Operator Mortgagee whose lien is subordinate shall be void and of no further force or effect. The provisions of this Section 13 shall survive the termination, rejection or disaffirmation of this Agreement and shall continue in full force and effect thereafter to the same extent as if this Section 13 were a separate and independent contract made by Owner, Operator and each Operator Mortgagee, and, from the effective date of such termination, rejection or disaffirmation of this Agreement to the date of execution and delivery of such New Agreement, such Operator Mortgagee or other purchaser at a foreclosure sale may use and enjoy the Operator Property without hindrance by Owner or any person claiming by, through or under Owner; provided that all of the conditions for the New Agreement as set forth above are complied with.

13.8 **Operator Mortgagee's Consent to Amendment, Termination or Surrender.** Notwithstanding any provision of this Agreement to the contrary, the Parties agree that so long as any Operator Mortgage remains outstanding, this Agreement shall not be modified or amended, and Owner shall not accept a surrender, cancellation or release of all or any part of the Operator Property from Operator, prior to expiration of the Term of this Agreement, without the prior written consent of the Operator Mortgagee holding such Operator Mortgage. This provision is for the express benefit of and shall be enforceable by each Operator Mortgagee as if it were a party named in this Agreement.

14. **Assignment and Sublease.** Operator shall have the right, without Owner's consent, to sell, convey, lease, or assign all or any portion of this Agreement or the Operator Property, on either an exclusive or a non-exclusive basis, or to grant subeasements, co-easements, easements, licenses or similar rights with respect to the Operator Property (collectively, "**Assignment**"), to one or more persons or entities (collectively "**Assignee**"). Each Assignee shall use the Operator Property only for the uses permitted under this Agreement. When Operator makes any Assignment under this Section 14, Operator shall give written notice to Owner of such Assignment (including the interest conveyed by the Assignment and address of the Assignee for notice purposes) to Owner; provided Operator's failure to give such notice shall not constitute a default under this Agreement, but rather shall only have the effect of not binding Owner with respect to such assignment or conveyance until such notice is given. Any Assignment by Operator shall release Operator from obligations subject thereof accruing after the date that liability for such obligations is assumed by the Assignee.

15. **Hazardous Materials.**

15.1. **Owner's Covenants Regarding Hazardous Materials.** Owner represents and warrants that, to the best of Owner's knowledge, the Owner's Property is not and has not been in

misconduct, or breach by Operator, its agents, contractors, employees, invitees, licensees, or permittees.

16.4 **Survival.** The obligations of the Parties under this Section 16 shall survive expiration or other termination of this Agreement.

17. **Confidentiality.** This Agreement includes confidential and proprietary information relating to Operator and the Project. Owner agrees not to provide copies of the Agreement or disclose the terms of the Agreement to any unauthorized person or entity. Operator authorizes Owner to provide copies of the Agreement and disclose the terms thereof to Owner's family ("family" shall be deemed to include all devisees or descendants of owner by will or intestacy), attorney, accountant, financial advisor and any existing or prospective mortgagee, lessee, or purchaser for the sole purpose of evaluating and advising Owner and for no other purpose, so long as such authorized parties agree in writing to become subject to the confidentiality provisions hereto and not to provide copies of the Agreement or disclose the terms thereof to any unauthorized person or entity. Any Owner and party shall return all material containing any confidential information to Operator immediately upon its request. Any party agrees to destroy immediately upon request by Operator such analyses, compilation, studies or other documents, and any oral information will continue to be subject to the terms of this Agreement. Owner agrees that Operator will have no adequate remedy at law if any party violates any of the terms of this Agreement. In such event Operator will have the right, in addition to any other rights Operator may have, to obtain injunctive relief to restrain any breach or threatened breach by third party or specific enforcement of such terms plus reimbursement of attorneys' fees, court costs and all associated expenses. No party shall publish, file for public record, reproduce, or otherwise disseminate this document or any of the terms and provisions hereof to any party, other than the Parties set forth above without the prior written consent of Operator, which consent may be withheld for any reason and in Operator's sole discretion.

18. **Default and Remedies.**

18.1 **Operator Payment Default.** If Operator shall fail to pay any amounts set forth in **Exhibit D** which failure continues for more than thirty (30) days from receipt of written notice from Owner that such amount is due, then Operator shall be in default ("**Operator Payment Default**") and Owner shall have the following remedies:

18.1.1 **Collection of Payments.** With or without terminating this Agreement, Owner may file a lawsuit against Operator to collect any unpaid amounts set forth in **Exhibit D** together with interest thereon that accrues during the continuance of the Operator Payment Default, calculated at a rate ("**Default Rate**"), which is the lesser of (i) the prime interest rate at JP Morgan Chase & Co. (or its successor) plus two percent (2%) per annum, or (ii) the maximum lawful rate.

18.1.2 **Terminate Agreement.** Owner may not terminate this Agreement because of any Operator Payment Default without first giving Operator written notice of its intention to terminate the Agreement ("**Termination Notice**"), to be effective on a date to be specified by Owner that is at least thirty (30) days after the date of the Termination Notice. If, by the date specified in the Termination Notice, Operator fails to pay the amount required to cure

remedies that may be available to Operator at law or in equity, including but not limited to all loss or damage which Operator may suffer by reason of a termination of this Agreement.

19. **Condemnation.**

19.1 **Complete Taking.** If, at any time, any authority having the power of eminent domain shall condemn all or substantially all of the Operator's Property, or all of the Improvements thereon, for any public use or otherwise, then the interests and obligations of Operator under this Agreement in or affecting the Operator's Property shall cease and terminate upon the earlier of (i) the date that the condemning authority takes physical possession of the Operator's Property or the Improvements thereon, (ii) the date that Operator is, in its sole judgment, no longer able or permitted to operate the Project on the Operator's Property in a commercially viable manner, or (iii) the date of the condemnation judgment. Operator shall continue to pay all amounts payable hereunder to Owner until the earlier of such dates, at which time the Parties shall be relieved of any and all further obligations and conditions to each other under this Agreement.

19.2 **Partial Taking.** If, at any time during the term of this Agreement, any authority having the power of eminent domain shall condemn one or more, but not all, of the Solar Panels, or any portion of the Improvements or the Operator's Property, then the interest and obligations of Operator under this Agreement as to those Solar Panels or any portion of the Improvements or the Operator's Property so taken shall cease and terminate upon the earlier of (i) the date that the condemning authority takes possession of such Solar Panels or any portion of the Improvements or the Operator's Property, (ii) the date that Operator is, in its reasonable judgment, no longer able or permitted to operate the Project on the Operator's Property, or any portion thereof, in a commercially viable manner, or (iii) the date of the condemnation judgment; and, unless this Agreement is terminated as hereinafter provided, this Agreement shall continue in full force and effect as to the remainder of the Solar Panels, Improvements and the Operator's Property. If the remainder of the Solar Panels or any other portion of the Improvements or the Operator's Property is or becomes insufficient or unsuitable for Operator's purposes hereunder, as determined by Operator in its sole discretion, then, subject to the rights of any Operator Mortgagee under Section 13, Operator shall have the right to terminate this Agreement as to the portion of the Operator's Property to which Operator continues to hold the rights, at which time the Parties shall be relieved of any further obligations and duties to each other under this Agreement.

19.3 **Apportionment, Distribution of Award.** On any taking, all sums awarded, including damages and interest, shall be paid as follows:

(a) Any portion of the award by the court on account of any cost or loss that Operator may sustain in the removal and relocation of Operator's Improvements, to Operator;

(b) Any portion of the award by the court for Operator's anticipated or lost revenues or profits, to Operator;

(c) Any portion of the award by the court for Owner's lost revenues, to Owner;

21.4 **Amendments.** This Agreement shall not be amended or modified in any way except by an instrument signed by the Parties and consented to by any Operator Mortgagee. The Parties hereto shall at all times hereafter execute any documents and do any further acts which may be necessary or desirable to carry out the purposes of this Agreement and to give full force and effect to each and all of the provisions hereof.

21.5 **Legal Matters.** This Agreement shall be governed by and interpreted in accordance with the then existing laws of the Commonwealth of Kentucky and the County where the Owner's Property is located shall be considered the proper forum or jurisdiction for any disputes arising in connection with this Agreement. The Parties agree to first attempt to settle any dispute arising out of or in connection with this Agreement by good-faith negotiation. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, each shall have all remedies available at law or in equity and as provided by this Agreement. **Each Party waives all right to trial by jury and specifically agrees that trial of suits or causes of action arising out of this Agreement shall be to the court of competent jurisdiction.**

21.6 **Severability.** If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid, shall be enforced to the fullest extent permitted by law.

21.7 **Tax Credits.** If under applicable law Operator becomes ineligible for any currently existing tax credit, benefit or incentive for alternative energy expenditure established by any local, state or federal government, then, at Operator's option, the Parties shall negotiate in good faith to amend this Agreement or replace it with a different instrument so as to convert Operator's interest in the Operator Property to a substantially similar interest that makes Operator eligible for such tax credit, benefit or incentive. Such amendment or instrument shall not impair any of Owner's rights or increase the burdens or obligations of Owner under this Agreement.

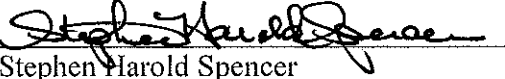
21.8 **Approvals.** Whenever in this Agreement the approval or consent of either Party is required or contemplated, unless otherwise specified, such approval or consent shall not be unreasonably withheld or delayed.

21.9 **Authority.** The signatories hereto warrant that each has the authority to execute this Agreement on behalf of any entities which are Parties to this Agreement and that each such entity has executed this Agreement pursuant to its organizational documents or a resolution or consent of their Board of Directors or other governing body.

21.10 **Time of Essence.** Time is of the essence of each provision of this Agreement.


21.11 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

Owner:


Stephen Harold Spencer

Operator:

Boulevard Associates, LLC
a Delaware limited liability company

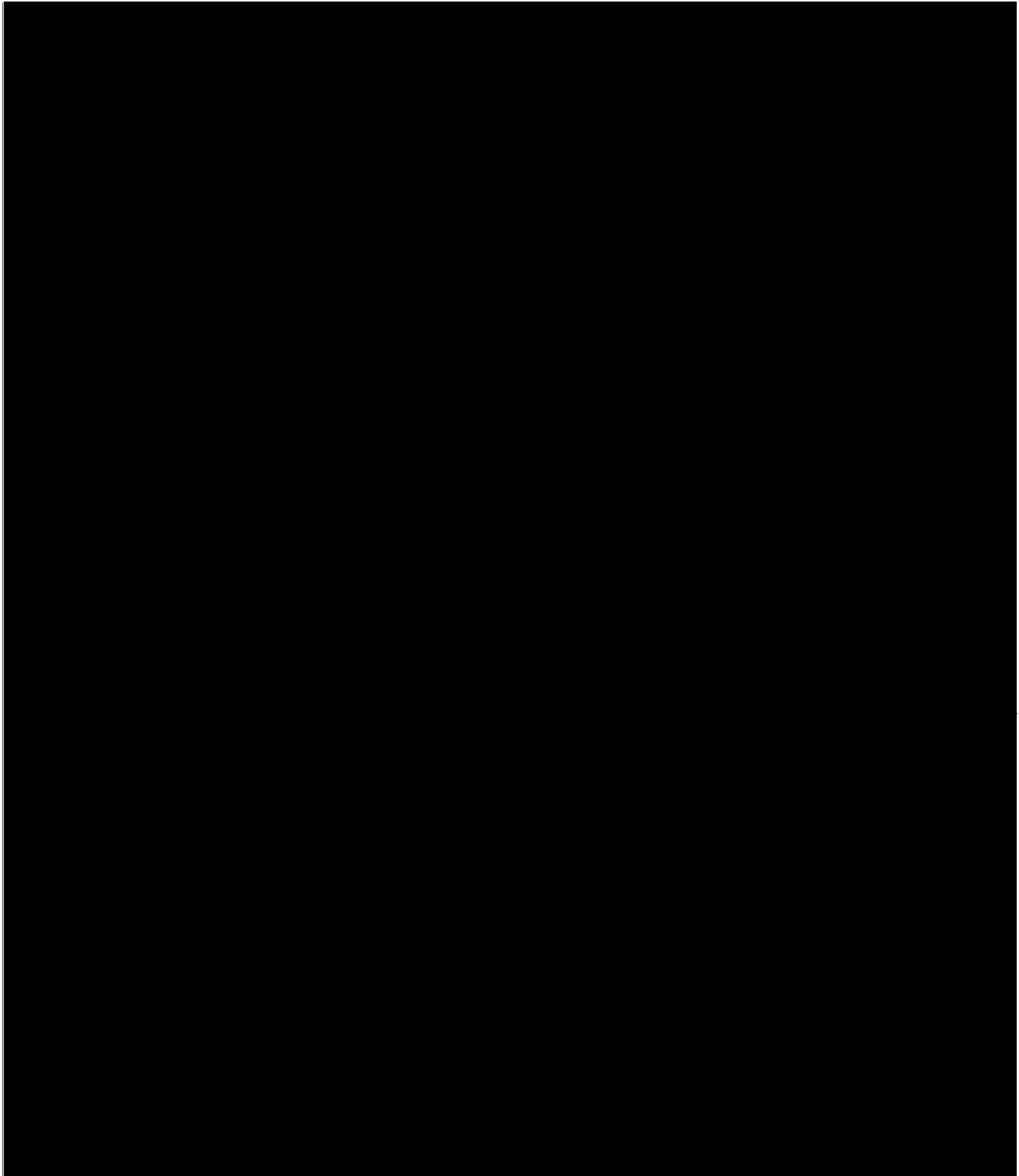
By: 
Anthony Pedroni, Vice President

HOLDING PAGE FOR EXHIBIT B

Preliminary Lease and Easement Improvement Plan and Acreage Calculation
To be Delivered with Option Notice

EXHIBIT D

Lease and Easement Compensation



Kentucky

MEMORANDUM OF SOLAR LEASE AND EASEMENT AGREEMENT

THIS MEMORANDUM OF SOLAR LEASE AND EASEMENT AGREEMENT ("**Memorandum**"), is dated this 11 day of August, 2020 ("**Effective Date**"), by and between: (i) between Stephen Harold Spencer, a single person whose address is 213 Coral Drive, Apt A, Goldsboro, NC 27534 ("**Owner**") and (ii) Boulevard Associates, LLC, a Delaware limited liability company ("**Operator**"), whose address is 700 Universe Boulevard, Juno Beach, FL 33408. Each of Owner and Operator shall hereinafter be referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

WHEREAS, the Parties entered into a Solar Lease and Easement Agreement dated as of the Effective Date ("**Agreement**"), by which Owner granted to Operator an exclusive option ("**Option**") for a Lease and Easements over and across certain real property located in Henderson County, Kentucky, described on the attached **Exhibit A** as the "**Owner's Property**".

WHEREAS, the Parties desire to execute, deliver and record this Memorandum for the purpose of putting all persons on notice of Operator's right, title and interest in Owner's Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby state, declare and establish as follows:

1. **Defined Terms; Incorporation by Reference.** All capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Agreement, and the terms, covenants and conditions of the Agreement are incorporated herein by reference with the same force and effect as though fully set forth herein.

2. **Option.** The period during which Operator may exercise the Option shall be for a term of four (4) years, commencing on the Effective Date ("**Option Term**"). Operator may exercise the Option by giving written notice to Owner ("**Option Notice**") at any time during the Option Term. Operator shall specify in the Option Notice the commencement date ("**Commencement Date**"). On the Commencement Date, the Lease and Easements as defined in the Agreement shall automatically become effective, and the Parties shall be subject to all of the

9. **Binding Effect.** The terms and conditions of this Memorandum and of the Lease shall be covenants running with the Owner's Property and shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors, assigns, heirs and personal representatives.

[Signatures on Next Pages]

[Faint, illegible text]

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EXECUTED on the date set forth below.

Operator:

Boulevard Associates, LLC
a Delaware limited liability company

By: *Anthony Pedroni*
Anthony Pedroni,
Vice President

ACKNOWLEDGEMENT

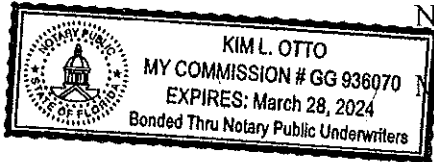
STATE OF FLORIDA)
) ss:
COUNTY OF PALM BEACH)

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 11 day of August, 2020 by Anthony Pedroni, as Vice President of Boulevard Associates, LLC, a Delaware limited liability company, personally known to me to be the person who subscribed to the foregoing instrument and acknowledged that he executed the same on behalf of said limited liability company and that he was duly authorized so to do.

[Handwritten Signature]

(notary seal)

NOTARY PUBLIC, STATE OF FLORIDA



My commission expires: _____

This instrument prepared by:

Andrew K. Fritsch, Esq.
700 Universe Blvd., JB/LAW
Juno Beach, FL 33408
(561) 304-6526

Kentucky

SOLAR LEASE AND EASEMENT AGREEMENT

1. **Parties.** This Solar Lease and Easement Agreement ("**Agreement**") is made and entered as of the 20 day of December 2019 ("**Effective Date**"), by and between Milton E. Crowder and Diane G. Crowder, husband and wife ("**Owner**") and Boulevard Associates, LLC, a Delaware limited liability company ("**Operator**"), which are sometimes individually referred to as a "**Party**" and collectively as the "**Parties**".

2. **Project.** This Agreement relates to the solar-powered electrical power generation and transmission project known as the "Sebree Solar Energy Center" to be located in Henderson County, Kentucky ("**Project**"), which may be wholly or partially located on the Owner's property legally described on the attached **Exhibit A** to this Agreement ("**Owner's Property**"). Upon Operator's exercise of the Option (as defined below), the Project shall include (i) the Lease of Owner's Property described in Section 4, (ii) the Easements referenced in Section 5 that are located on the Owner's Property, and (iii) the Improvements referenced in Section 8 to be constructed on Owner's Property. The Lease, Easements and Improvements are sometimes collectively referred to as the "**Operator Property**".

3. **Option.** Owner grants to Operator an exclusive option ("**Option**") to acquire the Lease and Easements referenced in Sections 4 and 5 in accordance with the following terms and conditions. Operator shall be entitled to acquire the Lease and the Easements in their entirety or in part, as Operator deems appropriate.

3.1 **Option Term.** The period during which Operator may exercise the Option shall be for a term of four (4) years, commencing on the Effective Date ("**Option Term**").

3.2 **Option Payment.** As consideration for the granting of the Option, Operator agrees to pay Owner the Option Payment set forth in **Exhibit D**.

3.3 **Use of Owner's Property.** During the Option Term, Operator and its employees, agents and contractors shall have a right to enter upon the Owner's Property and the right of ingress and egress over and across the Owner's Property for the purposes of (i) surveying the Owner's Property; (ii) performing such other tests and studies as Operator may desire in connection with the Option, including, without limitation, environmental, avian and cultural resource assessments, and geotechnical, foundation and soil tests, provided that such activities do not unreasonably interfere with Owner's use of the Owner's Property; and (iii) installing, maintaining, operating, inspecting and removing one or more weather related instruments ("**Weather Instrument**") and fencing of said Weather Instrument and including the performance of all tests and studies associated therewith. Owner shall not permit any other individual or entity except Operator or its affiliates to install a Weather Instrument on Owner's Property.

3.4 **Right to Grant Option.** Owner warrants and represents to Operator that (i) the statements in Section 9 concerning Owner's title to the Owner's Property are true and correct; (ii) Owner has the authority to grant this Option to Operator without the consent or approval of any other party; and (iii) there are no other existing options, rights of first refusal, contracts to

purchase, leases or mortgages that would prevent Operator from exercising its rights with respect to the Option.

3.5 **Exercise of Option.** Operator may exercise the Option by giving written notice to Owner ("**Option Notice**") at any time during the Option Term. Operator shall specify in the Option Notice the Commencement Date referenced in Section 6.1.1. On the Commencement Date, the Lease and Easements referenced in Sections 4 and 5 shall automatically become effective, and the Parties shall be subject to all of the terms and conditions of this Agreement with respect to such Lease and Easements and all rights and obligations relating thereto.

3.6 **Termination of Option.** If Operator fails to exercise the Option within the Option Term, the Option and the rights of Operator as the optionee shall automatically terminate.

4. **Lease.** Upon exercise of the Option by Operator, Owner leases to Operator, and Operator leases from Owner, Owner's Property for the Lease and Easement Term (defined in Section 6.1) in accordance with the terms and conditions of this Agreement ("**Lease**"), which Lease grants Operator and its agents, contractors, and employees the right to use the Owner's Property for the following permitted uses:

4.1 **Construction Right.** Operator leases Owner's Property for the purpose of constructing, operating, maintaining, repairing, replacing, and removing all or any part or component of the Improvements whether located on Owner's Property. Operator may exercise its right to use all or any part of the Owner's Property as and when Operator deems it necessary or advisable to do so to perform the activities for which this right is granted, including, without limitation, staging areas and parking for Operator's employees. Any such areas being used temporarily by Operator shall be located immediately adjacent to the portion of the Property leased by Operator hereunder.

4.2 **Access Right.** Operator leases Owner's Property for unobstructed vehicular and pedestrian access and ingress to and egress from the Improvements, Owner's Property and any public roadways, and to construct, maintain, and utilize Roadway Improvements on the Owner's Property. Owner shall not permit others to obstruct or damage the roads or Roadway Improvements located on the Owner's Property or in any other way interfere with Operator's rights under this right. Operator shall repair any damage done to Roadway Improvements which result from use by Operator, its agents, servants or employees. Such roads shall be maintained in the condition necessary for use by Operator's equipment, and with regard to existing roads, shall be maintained in at least the condition that existed prior to Operator's use. Any roads inside of the fenced area of the project will be maintained by Operator at Operator's sole cost and expense.

4.3 **Solar Panels Right.** Operator leases Owner's Property for Operator to construct, operate, replace, relocate, remove, and maintain Solar Panels and the appurtenant Collection Facilities, together with associated roads and parking areas on Owner's Property.

4.4 **Collection Facilities Right.** Operator leases Owner's Property for Operator to construct, operate, maintain, replace, relocate or remove Collection Facilities on and under the Owner's Property.

4.5 **Substation Right.** Operator leases Owner's Property for Operator to construct, operate, maintain, replace, relocate or remove one or more Substations on Owner's Property.

4.6 **Telecommunication Right.** Operator leases Owner's Property for Operator to construct, operate, maintain, replace, relocate or remove Telecommunication Facilities on and under the Owner's Property.

4.7 **Weather Instrument Right.** Operator leases Owner's Property in order to construct, operate, replace, relocate, remove, and maintain a Weather Instrument and the appurtenant Collection Facilities on Owner's Property.

4.8 **Battery Facilities Right.** Operator leases Owner's Property in order to construct, operate, replace, relocate, remove, and maintain one or more Battery Facilities on Owner's Property.

5. **Grant of Easements.** Upon the exercise of the Option by Operator, Owner grants to Operator, and Operator accepts from Owner, for the Lease and Easement Term referenced in Section 6.1, the following easements over and across the Owner's Property in accordance with the terms and conditions of this Agreement. The following easements are for the benefit of Operator and Operator's agents, contractors and employees and located on the Owner's Property and are collectively referred to as the "**Easements**".

5.1 **Sun Non-Obstruction Easement.** Owner grants Operator an irrevocable, exclusive easement for the right and privilege to use, maintain and capture the free and unobstructed sunlight over and across the Owner's Property. Owner shall not engage in any activity on Owner's Property or any other neighboring property owned by Owner that might interfere with the sunlight direction over any portion of Owner's Property; cause a decrease in the output or efficiency of any Solar Panel or Weather Instrument; or otherwise interfere with Operator's operation of the Project or exercise of any rights granted in this Agreement (collectively "**Interference**"). This grant of the easement expressly includes the right of Operator to enforce Operator's rights, including the physical removal of trees or structures (except existing trees and structures) causing Interference to the Project contemplated by Operator. Operator shall notify Owner before making any such removals.

5.2 **Effects Easement.** Owner grants to Operator an easement over Owner's Property for visual, view, light, flicker, noise, shadow, vibration, electromagnetic, electrical and radio frequency interference, and any other effects attributable to the Project located on the Owner's Property.

6. **Term.** The term of this Agreement ("**Term**") includes the Option Term referenced in Section 3.1, the Initial Lease and Easement Term as described in Section 6.1.1 and the Extended Lease and Easement Term as described in Section 6.1.2 (together, the Initial Lease and Easement Term and the Extended Lease and Easement Term, if applicable, is defined as the "**Lease and Easement Term**").

6.1 **Lease and Easement Term.**

6.1.1 **Initial Lease and Easement Term.** The initial term of the Lease and Easements shall commence on the date specified by Operator in the Option Notice ("**Commencement Date**"). The initial term of the Lease and Easements shall end thirty (30) years after the Commencement Date (the "**Initial Lease and Easement Term**"), subject to the rights of renewal and termination as provided in this Agreement.

6.1.2 **Extended Lease and Easement Term.** Operator shall have the right to extend the Term of this Agreement for two (2) consecutive terms of five (5) years each in accordance with the terms and provisions of this Agreement (collectively "**Extended Lease and Easement Term**") by providing written notice to Owner of Operator's intent to extend the Term within one hundred eighty (180) days of the end of the existing Term. Each Extended Lease and Easement Term shall begin on the expiration date of the Initial Lease and Easement Term or previous Extended Lease and Easement Term, as the case may be. During the Extended Lease and Easement Term, Operator shall pay Owner the amounts set forth in **Exhibit D** as the consideration for the Lease and Easements.

6.1.3 **Delays During Lease and Easement Term.** At Operator's option, the Term may be extended for a period of time equal to the period of time during which operation of the Project is delayed or suspended because of the occurrence of a Regulatory Suspension or Force Majeure, which are defined as follows:

(i) "**Regulatory Suspension**" shall mean the enactment or application of any law, order, rule, or regulation of the Kentucky Public Service Commission, Federal Energy Regulatory Commission, or other local, state, or federal government authority having jurisdiction over the Project or Operator, or the failure of any such governmental authority to issue an approval or permit pursuant to any such law, order, rule, or regulation, which results in the delay, interruption, or suspension of the production, sale or transmission of electricity from the Solar Panels; and

(ii) "**Force Majeure**" shall mean causes beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure, including but not limited to acts of God, labor unrest (including, but not limited to, slowdowns, picketing, boycotts or strikes), flood, earthquake, storm, fire, lightning, explosion, power failure or power surge, vandalism, theft, the cutting of power, transmission or other lines, wires or cables to the Project by persons other than Operator's employees or contractors, epidemic, war, revolution, riot, civil disturbance, sabotage, change in law or applicable regulation subsequent to the Commencement Date and action or inaction by any federal, state or local legislative, executive, administrative judicial agency or body which in any of the foregoing cases, by exercise of due foresight such Party could not reasonably have expected to avoid, and which, by the exercise of due diligence, it is unable to overcome.

The Parties shall be excused from performing their respective obligations under this Agreement and shall not be liable in damages or otherwise if and to the extent that they are unable to so perform or are prevented from performing by a Force Majeure, provided that: (i) the non-performing Party, as promptly as practicable after the occurrence of the Force Majeure, but in no event later than thirty (30) days thereafter, gives the other Party written notice describing the particulars of the occurrence; (ii) the suspension of performance is of no greater scope and of no

longer duration than is reasonably required by the Force Majeure; (iii) the non-performing Party uses good faith and commercially reasonable efforts to remedy its inability to perform; and (iv) as soon as the non-performing Party is able to resume performance of its obligations excused as a result of the occurrence, each Party shall give prompt written notification thereof to the other Party. Notwithstanding the foregoing, Operator shall pay Owner 50% of the Annual Installment Payments during any period of Force Majeure.

6.2 **Termination by Operator**. Provided Operator is not in default under any term of this Agreement, Operator, at its option, shall have the right to terminate this Agreement at any time during the Term of the Agreement, as to all or any part of the Operator Property. Termination shall be effective thirty (30) days after written notice of such termination to Owner. If Operator's notice is a full termination of the Operator Property, the Parties shall be relieved of all further duties and obligations under this Agreement, other than (i) the payment of any accrued and unpaid obligations owed by either Party as of the date of termination; (ii) the removal of the Improvements by Operator pursuant to Section 8.11; and (iii) any other obligations and liabilities that are expressly stated in this Agreement to survive such termination. Upon any such partial termination by Operator, the Parties shall be relieved of all further duties and obligations under this Agreement with respect to the portion thereof terminated by Operator, subject to the obligations and liabilities referenced in items (i) through (iii) above that shall continue to be applicable to the terminated portion of this Agreement. The Parties agree to execute an amendment to this Agreement evidencing such partial termination.

7. **Payments**. If Operator exercises the Option referenced in Section 3, Operator agrees to pay Owner the amounts set forth in **Exhibit D** as consideration for the Lease, Easements and Operator's other rights and interests in the Owner's Property.

8. **Improvements**. Operator shall have the right, at its sole cost and expense, to construct, install, maintain, use, operate, repair, replace, relocate and remove all facilities, structures, equipment, machinery, wires, conduit, cables, poles, materials and property of every kind and character required for the construction and operation of portions of the Project on the Owner's Property, including, but not limited to, the Solar Panels, Collection Facilities, Substations, Telecommunication Facilities, Weather Instruments, Roadway Improvements and Battery Facilities referenced in Sections 8.1 through 8.7 (collectively, the "**Improvements**").

8.1 **"Solar Panels"** shall mean any photovoltaic energy system designed for the generation of electrical power from the collection of sunlight, including without limitation, the photovoltaic panels, foundations, support structures, braces and related equipment.

8.2 **"Collection Facilities"** shall mean all Improvements whose purpose is to deliver electrical power generated by the Solar Panels to an electrical power grid or other system, including without limitation transformers, overhead and underground electrical collection lines, telecommunication lines, splice boxes and interconnection facilities.

8.3 **"Substations"** shall mean electrical lines, meters, monitoring and control equipment, switches, transformers, all structures, equipment, enclosures, fencing, security devices, and other electrical and communications equipment necessary to condition and increase

the voltage of electricity generated by the Project to make it suitable for transmission on, and to deliver it to, Collection Facilities connected to an electric power grid or other system.

8.4 **"Telecommunication Facilities"** shall mean all Improvements whose purpose is to provide telecommunication services solely relating to the Project or any of Operator's solar powered projects, including telephone, closed-circuit television, microwave, internet, computer data and other telecommunication services.

8.5 **"Weather Instrument"** shall mean instruments used primarily to gather and transmit sunlight and meteorological data relating to the Project, and includes the instrument's foundations, guy wires, sunlight and meteorological data acquisition equipment, power source, and any required data and electrical transmission lines.

8.6 **"Roadway Improvements"** shall mean all improvements that may be necessary to construct, maintain and repair any new and existing roadways and other means of ingress and egress over, across and along the Owner's Property, including paving or surfacing of the roadways with asphalt, gravel or other roadway materials, installation of road signs and the construction and installation of culverts, bridges, drainage ditches, gates, cattle guards and similar structures and facilities.

8.7 **"Battery Facilities"** shall mean a type of equipment that can be given a new charge by passing an electric current through it designed for the storage of electrical power including without limitation, batteries and other devices for storage of electrical energy, foundations, support structures, braces and related equipment.

8.8 **Ownership of Improvements.** Except as otherwise provided in Section 11.7, all Improvements shall at all times remain the property of Operator, and Owner shall have no right, title or interest therein. All Improvements constructed or placed on the Owner's Property by Operator during the Term of this Agreement may be repaired, replaced, relocated, removed, added to or expanded upon by Operator at any time during the Term of this Agreement. Owner expressly waives any statutory lien or common law liens on the Improvements to which Owner might be entitled.

8.9 **Construction Liens.** Operator shall not permit any liens arising out of Operator's use of the Operator Property under this Agreement to be filed against the Owner's Property. Operator shall, within sixty (60) days after it receives notice of the lien, provide a bond or other security that Owner may reasonably request, or remove such lien from the Owner's Property in the manner provided by applicable law.

8.10 **Location of Improvements.** The acreage required from the Owner's Property for the Improvements for which the Lease and Easements are being granted cannot be determined until the completion of Operator's inspection, testing, study and surveying of the Owner's Property during the Option Term. Along with the Option Notice, Operator shall deliver to Owner a proposed plan of development showing the contemplated locations of the Improvements and a preliminary calculation of the acreage as determined by the area bounded by a perimeter fence required for the Project, which shall serve as the **Exhibit B** to this Agreement. During the final development and construction of the Project, such locations may need to be amended.

Following construction of the Project, Operator shall provide Owner an "as-built" survey of all Improvements on Owner's Property and the final calculation of the acreage as determined by the area bounded by a perimeter fence required for the Project, which shall serve as **Exhibit C** to this Agreement. Further, following construction, the Improvements may need to be relocated or rerouted by Operator, which Operator may perform, at any time during the Term of this Agreement, so long as the nature and extent of any such relocated or rerouted Improvements are not materially different and impose no materially greater burden on the Owner's Property than the original locations or routes, and so long as Operator takes commercially reasonable efforts to minimize disruption or inconvenience to Owner.

8.11 Removal of Improvements. Upon full or partial termination of any of the Lease Rights or Easements, Operator shall, within one (1) year of such full or partial termination, remove all Improvements and restore the area formerly occupied by the Improvements to substantially the same physical condition that existed immediately before the construction of the Improvements (the "**Removal Obligations**"). At Owner's request, all or any part of the Roadway Improvements may be left for use by Owner. Annual Installments Payments shall continue to be made, on a prorated basis, until the Removal Obligations are substantially completed.

8.12 If a governmental authority does not require a performance bond or security for removal of the Improvements, then, Operator shall obtain and deliver to Owner a bond in form and substance reasonably satisfactory to Owner securing Operator's Removal Obligations (the "Removal Bond") prior to the date that the Project first delivers energy in commercial quantities onto the grid. The Removal Bond shall be equal to the estimated amount, if any (the "Net Removal Costs"), of removing the Improvements from Owner's Property less the salvage value of the Improvements. Operator shall not be required to deliver such Removal Bond to Owner if Operator has delivered such a bond in connection with the permitting of Owner's Property or any other portion of the Improvements for the Project. Once in place, Operator shall keep such bond, or a like replacement, in force throughout the remainder of the Term. The Net Removal Costs shall be determined by the Parties hereto acting in good faith. If the Parties cannot agree upon the Net Removal Costs within sixty (60) days of their first attempt to do so, then the Net Removal Costs shall be determined by an independent engineer mutually selected by the Parties. If the Parties cannot agree upon such independent engineer within the next thirty (30) days, then by an independent engineer appointed by a District Judge of Henderson County, Kentucky; and the decision of such an independent engineer (however selected) as to the Net Removal Costs shall be conclusive as between and binding upon, the Parties. If an independent engineer is selected, then the Parties hereto shall equally share all of the costs associated with the independent engineer's determination of the Net Removal Cost. If the Removal Bond is unavailable or an alternate form of security is more economical or desirable, then Operator may substitute an alternate form of security, such as a letter of credit, other form of bond, or guarantee reasonably acceptable to Owner that provides substantially equivalent security as the Removal Bond. Operator shall redetermine the amount of the Removal Security beginning immediately prior to the tenth (10th) year of the Lease and Easement Term and every five (5) years after the initial posting of the Removal Bond.

9. **Ownership and Title Matters.** Except as otherwise set forth herein, Owner warrants and represents to Operator, both as of the Effective Date, and as of the Commencement Date as follows:

9.1 **Authority.** Owner represents and warrants that it is the holder of fee simple title and is the sole owner of the Owner's Property and has the unrestricted right and authority to sign this Agreement and to grant Operator the Lease and Easements and other rights granted in this Agreement. When signed by both Parties, this Agreement constitutes a valid and binding agreement enforceable against Owner in accordance with its terms.

9.2 **Other Agreements.** The Owner's Property is not subject to any other agreements, options, rights of first refusal or other prior right of any party to purchase, lease or acquire easements in the Owner's Property, or create any prior claim or right that would preclude or interfere with Operator's rights and interests under this Agreement and the Lease and Easements.

9.3 **Minerals.** Except as disclosed by Owner to Operator at the time of the execution of this Agreement by Owner, Owner owns all of the oil, gas and other minerals, and all rights thereto as on or under the Owner's Property.

9.4 **Owner Mortgage.** Except as disclosed by Owner to Operator at the time of the execution of this Agreement by Owner, there are no mortgages encumbering the Owner's Property ("**Owner Mortgage**").

9.5 **Notice and Opportunity to Cure.** If there is an Owner Mortgage encumbering Owner's Property and Owner receives from the holder thereof any notice that payments are overdue, Owner shall notify Operator and each Operator Mortgagee (as defined at Section 13.1) by sending a copy of such overdue payment notice to Operator by the earlier of (i) five (5) days after receipt, or (ii) three (3) business days prior to the date by which a default under or in respect of such Owner Mortgage could occur. If Operator or any Operator Mortgagee determines that it would be in Operator's interest to make such payments to Owner Mortgagee on Owner's behalf, whether as a result of receiving such notice or otherwise, Operator shall have the right to make such payments and to credit the payments so made against the Annual Installment Payment next due under the Agreement.

9.6 **Subordination, Non-Disturbance & Attornment Agreement.** If there is an Owner Mortgage encumbering Owner's Property, Owner shall cooperate with Operator to obtain a Subordination, Non-Disturbance and Attornment Agreement ("**SNDA**") in the form prepared and provided by Operator, from each Owner Mortgagee, pursuant to which such Owner Mortgagee agrees, among other things, not to disturb Operator's possession and use of the Owner's Property. Owner shall not incur any loss in income, expense, obligation or liability with regard to the SNDA. Operator shall, at its sole cost and expense, record each such SNDA in the Office of the County Clerk in which Owner's Property is located. If Owner fails to deliver a SNDA from each Owner Mortgagee, Operator may, at its sole option, either (i) terminate this Agreement immediately upon written notice to Owner, or (ii) take such action as Operator deems reasonably necessary to effect the rights granted to Operator hereunder, and off-set all amounts

expended in such efforts against the Annual Installment Payments and any other amounts due hereunder or in respect hereof.

10. **Representations and Warranties of Owner.** Owner hereby makes the following further representations and warranties both as of the Effective Date, and as of the Commencement Date:

10.1 **Physical Condition.** Owner has no knowledge of any existing physical conditions except for Henderson County Zoning and land use ordinances and restrictions of the Owner's Property which would prevent, significantly restrict or make more expensive Operator's development of the Owner's Property for the purposes specified in this Agreement, or which could, with the passage of time, or the giving of notice, constitute a violation of any currently applicable governmental law, ordinance, order, rule or regulation.

10.2 **Legal Restrictions.** Owner has no knowledge of any law, regulation, ordinance or order of any local, state or federal governmental authority which would prohibit or significantly restrict Operator's development of the Owner's Property pursuant to this Agreement. This Agreement does not violate any contract, agreement, instrument, judgment or order to which Owner is a party or which affects the Owner's Property. To the best of Owner's knowledge, the Owner's Property is currently in full and complete compliance with all governmental laws, ordinances, orders, rules and regulations applicable to the Owner's Property.

10.3 **No Litigation.** No litigation is pending and, to the best of Owner's knowledge, no litigation or administrative actions are proposed, threatened or anticipated with respect to any matter affecting the Owner's Property. If Owner learns of any litigation or administrative action proposed, threatened or instituted with respect to the Owner's Property, Owner shall give Operator notice within thirty (30) days thereof.

10.4 **Survival.** The representations and warranties set forth in this Section 10 shall survive the execution and delivery hereof.

11. **Use, Operation and Maintenance.**

11.1 **Exclusive Use by Operator.** Operator shall have the exclusive right (i) to use and possess the Owner Property in connection with the Project and other similar solar-powered electrical power generation projects; (ii) to investigate, inspect, survey, and conduct tests of the Owner's Property, including, but not limited to, meteorological, environmental, archeological and geotechnical tests and studies; (iii) to use and convert all of the sunlight resources on the Owner's Property; and (iv) to undertake such other activities on the Owner's Property that may be related to the Project, including, without limitation, the storage of Solar Panels, materials and equipment during the installation and construction of the Improvements; development and operation of communications systems; and site tours of the Project for visitors and other interested parties.

11.2 **No Required Installation or Operation.** Nothing in this Agreement shall be interpreted as imposing on Operator any obligation to install Solar Panels or other Improvements on the Owner's Property, or to operate the Project on the Owner's Property. Operator shall have the sole discretion to determine if and when any Solar Panels and other Improvements may be

constructed on Owner's Property, and if and when to commence the operation of the Project on the Owner's Property.

11.3 **Permits and Approvals.** Operator shall be responsible, at its sole cost and expense, for obtaining any governmental permits and approvals necessary for the construction and operation of the Project and the construction and operation of the Improvements. Owner shall cooperate with Operator as necessary to obtain any governmental or utility approvals or permits, including, without limitation, signing any applications for such approvals, provided that Owner shall not incur any loss in income, expense, obligation or liability with respect to Operator obtaining such permits or approvals.

11.4 **Compliance with Laws.** Operator shall comply in all material respects with valid laws applicable to the Owner's Property and the Operator Property. Operator shall have the right, in its sole discretion and at its sole expense, in Operator's name to contest the validity or applicability to the Owner's Property and the Operator Property of any law, ordinance, statute, order, regulation, property assessment or the like made by any governmental agency or entity. Operator shall control any such contest and Owner shall cooperate with Operator in every reasonable way in such contest, provided that Owner shall incur no expense, obligation or liability with regard to such contest.

11.5 **Care and Appearance.** Operator, in its exercise of the lease, easement and other rights granted hereunder shall, at all times, maintain the Owner's Property and the Improvements in a reasonably neat, clean and presentable condition. Operator shall not willfully or negligently damage or destroy the Owner's Property and shall keep the Owner's Property clean and free of debris created by Operator, its contractors, or others brought on to the Owner's Property by Operator. Operator shall not use the Owner's Property for storage, except for materials, construction equipment and vehicles directly associated with construction or maintenance of the Improvements on the Owner's Property or adjacent properties that are part of the Project.

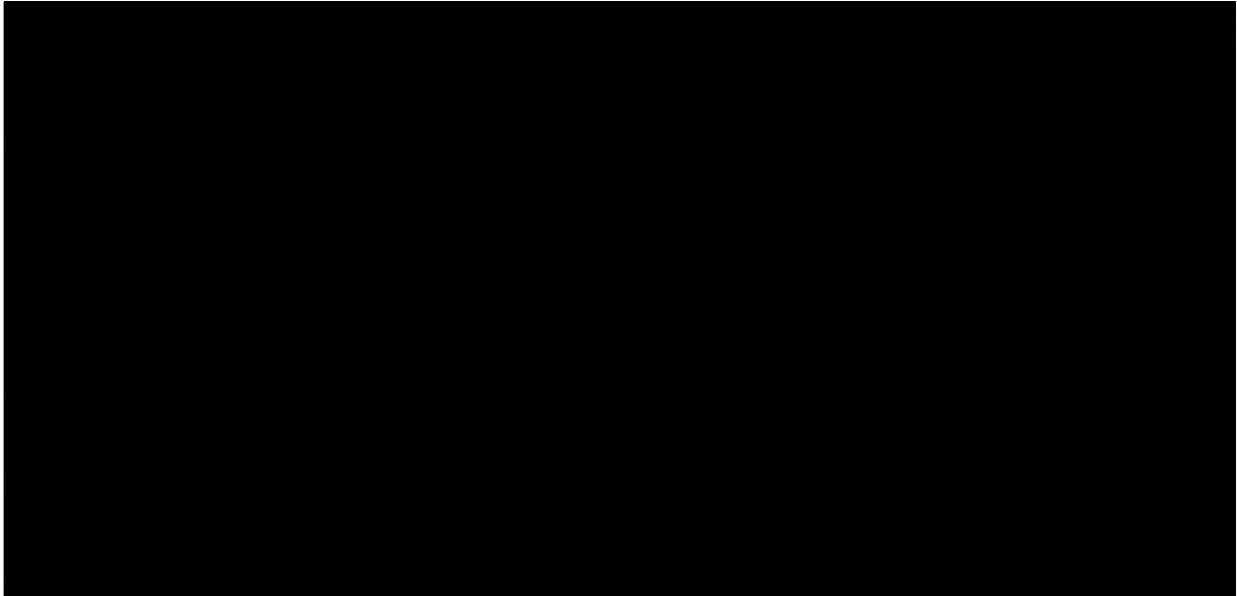
11.6 **Fences and Gates.** At Owner's request, Operator shall repair or replace any fences, gates or cattle guards damaged or removed in connection with Operator's activities on the Owner's Property. Fences removed from the Owner's Property, if replaced, shall be re-built by Operator at its expense in mutually agreeable locations. All fence repair and construction shall be substantially similar to the construction of existing fences and cattle guards on Owner's Property. Any gates opened for access to Owner's Property by either Party shall be closed immediately after passing through so that livestock may not pass through. Once completed, all replacement fences, gates and cattle guards shall be owned and maintained by Owner. Upon abandonment or termination of the rights granted to Operator in this Agreement, any fences, gates and cattle guards installed by Operator shall remain and become the property of Owner. To minimize the need for temporary fencing, Owner will cooperate with Operator to avoid pasturing animals on or near the Improvements during periods of construction, maintenance or removal activity by Operator. Owner will discuss with Operator what temporary fencing is necessary during the periods of construction, maintenance or removal activity by Operator.

11.7 **Roadway Maintenance and Repairs.** Operator agrees to maintain and repair all Roadway Improvements located on the Operator Property; provided, however, Owner shall reimburse Operator for any costs and expenses incurred by Operator to repair any damage or

perform any special maintenance of the Roadway Improvements caused by Owner or any person using the Roadway Improvements with Owner's permission, other than Operator.

12. **Taxes.**

12.1 **Owner's Taxes.** Owner covenants and agrees to pay prior to delinquency all real and personal property and other taxes, general and special assessments, and other charges of every description ("**Taxes**") levied or assessed against the Owner's Property and all improvements thereon by governmental authorities, other than Operator's Taxes referenced in Section 12.2 (Taxes, excepting Operator's Taxes, are hereinafter referred to as "**Owner's Taxes**").



12.3 **Failure to Pay.** In the event either Party fails to pay their share of Taxes prior to delinquency, the other Party shall have the right to pay such Taxes and any accrued penalties or interest, which payments shall increase or be offset against other Payments due under this Agreement.

12.4 **Operator's Right to Contest.** Operator may contest the legal validity or amount of any Operator's Taxes for which it is responsible under this Agreement, and may institute such proceedings as it considers necessary, provided that Operator shall bear all expenses in pursuing such contest or proceeding. With respect to any Taxes which may constitute a lien on the Owner's Property, Operator shall promptly pay such Taxes unless the proceeding in which it contests such Taxes shall operate to prevent or stay the collection of the Taxes so contested or unless Operator removes any such lien by bonding or otherwise. Owner agrees to render to Operator all reasonable assistance in contesting the validity or amount of any such Taxes, with the exception of Taxes levied by Owner, including joining in the signing of any reasonable protests or pleading which Operator may deem advisable to file; provided, however, that Operator shall reimburse Owner for its reasonable out-of-pocket expenses, including reasonable attorneys' fees incurred in connection with providing such assistance.

13. Mortgage of Operator Property.

13.1 Right to Mortgage. Operator may, upon written notice to Owner, but without requiring Owner's consent or approval, mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Agreement and the Operator Property, but not in Owner's interest therein. These various security interests in all or a part of this Agreement and the Operator Property are collectively referred to as an "**Operator Mortgage**" and holder of such security interest, an "**Operator Mortgagee**". Any Operator Mortgagee shall use the Operator Property only for the uses permitted under this Agreement. Whenever Operator has granted a security interest under this Section 13, it will give Owner notice of the Operator Mortgage (including the name and address of the Operator Mortgagee for notice purposes) to Owner within thirty (30) days; provided that failure to give this notice shall not constitute a default under this Agreement, but rather shall only have the effect of not binding Owner to provide such Operator Mortgage notice until the Operator and its address is given to Owner.

13.2 Notice of Default and Opportunity to Cure. As a precondition to exercising any rights or remedies related to any alleged default by Operator under this Agreement, Owner shall give written notice of the default to each Operator Mortgagee at the same time it delivers notice of default to Operator, specifying in detail the alleged event of default and the required remedy. Each Operator Mortgagee or its designee shall have the right, but not the obligation, to cure any default as Operator, and/or the right, but not the obligation, to remove any Improvements or other property owned by Operator or such Operator Mortgagee located on the Owner's Property to the same extent as Operator. The cure period for any Operator Mortgagee shall be the later of (i) the end of the Operator cure period under Section 18; (ii) thirty (30) days after such Operator Mortgagee's receipt of the default notice; or (iii) if applicable, the extended cure period provided for in Section 13.3. Failure by Owner to give an Operator Mortgagee notice of default shall not diminish Owner's rights against Operator, but shall preserve all rights of the Operator Mortgagee or its designee to cure any default and to remove any Improvements or other property of Operator or the Operator Mortgagee located on the Owner's Property.

13.3 Extended Cure Period. If any default by Operator under this Agreement cannot be cured without the Operator Mortgagee obtaining possession of all or part of the Operator Property, then any such default shall be deemed remedied if an Operator Mortgagee: (i) within sixty (60) days after receiving notice from Owner as set forth in Section 13.2, acquires possession of all or part of the Operator Property, or begins appropriate judicial or nonjudicial proceedings to obtain the same; (ii) diligently prosecutes any such proceedings to completion; and (iii) after gaining possession of all or part of the Operator Property performs all other obligations as and when the same are due in accordance with the terms of this Agreement. If an Operator Mortgagee is prohibited by any court or by operation of any bankruptcy or insolvency laws from commencing or prosecuting the proceedings described above, the sixty (60) day period specified above for commencing proceedings shall be extended for the period of such prohibition.

13.4 Operator Mortgagee Liability. Any Operator Mortgagee whose interest in the Operator Property is held solely for security purposes, shall have no obligation or liability under this Agreement unless and until the Operator Mortgagee succeeds to absolute title to the

Operator Property and the rights of Operator under this Agreement. An Operator Mortgagee shall be liable to perform obligations under this Agreement only for and during the period it directly holds such absolute title.

13.5 **Certificates.** Owner shall execute any estoppel certificates (certifying as to truthful matters, including without limitation that no default then exists under this Agreement, if such be the case), consents to assignment and non-disturbance agreements as Operator or any Mortgagee may reasonably request from time to time. The Parties shall negotiate in good faith any amendment to this Agreement from time to time to include any provision that may be reasonably requested by Operator or any Operator Mortgagee to implement the provisions contained in this Agreement or to preserve an Operator Mortgagee's security interest.

13.6 **Operator Mortgagee's Right to Enforce Mortgage and Assign.** Each Operator Mortgagee shall have the right, in its sole discretion: (i) to assign its Operator Mortgage; (ii) to enforce its lien and acquire title to all or any portion of the Operator Property by any lawful means; (iii) to take possession of and operate all or any portion of the Operator Property and to perform all obligations to be performed by Operator under this Agreement, or to cause a receiver to be appointed to do so; and (iv) to acquire all or any portion of the Operator Property by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer all or any portion of the Operator rights under this Agreement to a third party in accordance with Section 14. Any Operator Mortgagee or other party who acquires Operator's interest in all or a portion of the Operator Property pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on Operator by this Agreement, which are incurred or accruing after such Operator Mortgagee or other party no longer has ownership or possession of the Operator Property.

13.7 **New Agreement.**

13.7.1 If the Operator Property is foreclosed upon or there is an assignment in lieu of foreclosure, or if this Agreement is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditor's rights and, within ninety (90) days after such event, Operator or any Operator Mortgagee or other purchaser at a foreclosure sale shall have arranged to the reasonable satisfaction of Owner to cure any material defaults under this Agreement, and for the payment of all Annual Installment Payments or other charges due and payable by Operator as of the date of such event, then Owner shall execute and deliver to Operator or such Operator Mortgagee or other purchaser at a foreclosure sale, or to a designee of one of these parties, as the case may be, a new agreement ("**New Agreement**") which (i) shall be for a term equal to the remainder of the Term of this Agreement before giving effect to such rejection or termination; (ii) shall contain the same covenants, agreements, terms, provisions and limitations as this Agreement (except for any requirements that have been fulfilled by Operator or any Operator Mortgagee or other purchaser at a foreclosure sale prior to rejection or termination of this Agreement); and (iii) shall include that portion of the Operator Property in which Operator or such other Operator Mortgagee or other purchaser at a foreclosure sale had an interest on the date of rejection or termination.

13.7.2 If more than one Operator Mortgagee makes a written request for a New Agreement pursuant to this provision, the New Agreement shall be delivered to the Operator

Mortgagee requesting such New Agreement whose Operator Mortgage is prior in time, and the written request of any other Operator Mortgagee whose lien is subordinate shall be void and of no further force or effect. The provisions of this Section 13 shall survive the termination, rejection or disaffirmation of this Agreement and shall continue in full force and effect thereafter to the same extent as if this Section 13 were a separate and independent contract made by Owner, Operator and each Operator Mortgagee, and, from the effective date of such termination, rejection or disaffirmation of this Agreement to the date of execution and delivery of such New Agreement, such Operator Mortgagee or other purchaser at a foreclosure sale may use and enjoy the Operator Property without hindrance by Owner or any person claiming by, through or under Owner; provided that all of the conditions for the New Agreement as set forth above are complied with.

13.8 Operator Mortgagee's Consent to Amendment, Termination or Surrender.

Notwithstanding any provision of this Agreement to the contrary, the Parties agree that so long as any Operator Mortgage remains outstanding, this Agreement shall not be modified or amended, and Owner shall not accept a surrender, cancellation or release of all or any part of the Operator Property from Operator, prior to expiration of the Term of this Agreement, without the prior written consent of the Operator Mortgagee holding such Operator Mortgage. This provision is for the express benefit of and shall be enforceable by each Operator Mortgagee as if it were a party named in this Agreement.

14. **Assignment and Sublease.** Operator shall have the right, without Owner's consent, to sell, convey, lease, or assign all or any portion of this Agreement or the Operator Property, on either an exclusive or a non-exclusive basis, or to grant subleases, co-leases, easements, licenses or similar rights with respect to the Operator Property (collectively, "**Assignment**"), to one or more persons or entities (collectively "**Assignee**"). Each Assignee shall use the Operator Property only for the uses permitted under this Agreement. When Operator makes any Assignment under this Section 14, Operator shall give written notice to Owner of such Assignment (including the interest conveyed by the Assignment and address of the Assignee for notice purposes) to Owner; provided Operator's failure to give such notice shall not constitute a default under this Agreement, but rather shall only have the effect of not binding Owner with respect to such assignment or conveyance until such notice is given. Any Assignment by Operator shall release Operator from obligations subject thereof accruing after the date that liability for such obligations is assumed by the Assignee.

15. Hazardous Materials.

15.1 **Owner's Covenants Regarding Hazardous Materials.** Owner represents and warrants that, to the best of Owner's knowledge, the Owner's Property is not and has not been in violation of any federal, state or local environmental health or safety laws, statute, ordinance, rule, regulation or requirement ("**Environmental Laws**"), and Owner has not received any notice or other communication from any governmental authorities alleging that the Owner's Property is in violation of any Environmental Laws. "**Hazardous Materials**" shall mean any asbestos containing materials, petroleum, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances, or toxic substances under any

federal, state, or local law or regulation. Owner warrants that Owner has done nothing to contaminate the Operator Property with Hazardous Materials or wastes.

15.2 **Operator's Covenants Regarding Hazardous Materials.** Operator shall, at Operator's sole cost and expense, promptly take removal or remedial action required by Environmental Law with regard to any material violation of any Environmental Law with regard to any Hazardous Materials brought onto the Owner's Property by Operator or its employees, agents, or contractors. Owner shall cooperate with Operator with regard to any scheduling or access to the Owner's Property in connection with any action required hereunder.

15.3 **Operator's Indemnity Regarding Hazardous Materials.** Operator shall indemnify, defend, protect and hold Owner harmless from any liability based on: (i) the release of Hazardous Materials in, on, under or about the Owner's Property caused by Operator or its employees, agents, or contractors, or (ii) the violation by Operator or its employees, agents, or contractors of any Environmental Law. The indemnity obligations set forth herein shall survive termination of this Agreement.

16. **Insurance and Indemnity.**

16.1 **Insurance.** At all times during which Operator is conducting any activities on the Property and at all times during the Term of this Agreement, Operator shall maintain in effect (1) commercial General Liability Insurance, including bodily injury and property damage coverage with minimum limits of \$1 Million Dollars per occurrence and \$2 Million Dollars aggregate and (2) Umbrella Liability Insurance with minimum limits of \$5 Million Dollars per occurrence and \$5 Million Dollars aggregate. Operator shall name Owner as additional insured on such insurance policy and provide Owner with a certificate of such insurance.

16.2 **Indemnity by Operator.** Operator shall defend, indemnify, protect and hold Owner harmless from and against all liabilities, costs, expenses, obligations, losses, damages, claims, (collectively "**Claims**") resulting from the negligence, willful misconduct, or breach of this Agreement by Operator, its agents, contractors or employees, invitees, licensees and permittees; provided, however, that such Claims are not due to the sole negligence, willful misconduct, or breach by Owner, its agents, contractors or employees, invitees, licensees or permittees.

16.3 **Indemnity by Owner.** Owner shall defend, indemnify, protect, and hold Operator harmless from and against all Claims resulting from the negligence, willful misconduct, or breach of this Agreement by Owner, its agents, contractors or employees, invitees, licensees and permittees; provided, however, that such Claims are not due to the sole negligence, willful misconduct, or breach by Operator, its agents, contractors, employees, invitees, licensees, or permittees.

16.4 **Survival.** The obligations of the Parties under this Section 16 shall survive expiration or other termination of this Agreement.

17. **Confidentiality.** This Agreement includes confidential and proprietary information relating to Operator and the Project. Owner agrees not to provide copies of the Agreement or

disclose the terms of the Agreement to any unauthorized person or entity. Operator authorizes Owner to provide copies of the Agreement and disclose the terms thereof to Owner's family ("family" shall be deemed to include all devisees or descendants of owner by will or intestacy), attorney, accountant, financial advisor and any existing or prospective mortgagee, lessee, or purchaser for the sole purpose of evaluating and advising Owner and for no other purpose, so long as such authorized parties agree in writing to become subject to the confidentiality provisions hereto and not to provide copies of the Agreement or disclose the terms thereof to any unauthorized person or entity. Any Owner and party shall return all material containing any confidential information to Operator immediately upon its request. Any party agrees to destroy immediately upon request by Operator such analyses, compilation, studies or other documents, and any oral information will continue to be subject to the terms of this Agreement. Owner agrees that Operator will have no adequate remedy at law if any party violates any of the terms of this Agreement. In such event Operator will have the right, in addition to any other rights Operator may have, to obtain injunctive relief to restrain any breach or threatened breach by third party or specific enforcement of such terms plus reimbursement of attorneys' fees, court costs and all associated expenses. No party shall publish, file for public record, reproduce, or otherwise disseminate this document or any of the terms and provisions hereof to any party, other than the Parties set forth above without the prior written consent of Operator, which consent may be withheld for any reason and in Operator's sole discretion.

18. Default and Remedies.

18.1 Operator Payment Default. If Operator shall fail to pay any amounts set forth in **Exhibit D** which failure continues for more than thirty (30) days from receipt of written notice from Owner that such amount is due, then Operator shall be in default ("**Operator Payment Default**") and Owner shall have the following remedies:

18.1.1 Collection of Payments. With or without terminating this Agreement, Owner may file a lawsuit against Operator to collect any unpaid amounts set forth in **Exhibit D** together with interest thereon that accrues during the continuance of the Operator Payment Default, calculated at a rate ("**Default Rate**"), which is the lesser of (i) the prime interest rate at JP Morgan Chase & Co. (or its successor) plus two percent (2%) per annum, or (ii) the maximum lawful rate.

18.1.2 Terminate Agreement. Owner may not terminate this Agreement because of any Operator Payment Default without first giving Operator written notice of its intention to terminate the Agreement ("**Termination Notice**"), to be effective on a date to be specified by Owner that is at least thirty (30) days after the date of the Termination Notice. If, by the date specified in the Termination Notice, Operator fails to pay the amount required to cure the Operator Payment Default (including interest at the Default Rate that accrues during the continuance of the Operator Payment Default), Owner's termination of this Agreement shall become effective on the date specified in the Termination Notice. Upon such termination, the Parties shall be relieved of all further duties and obligations under this Agreement, other than (i) the payment of any accrued and unpaid obligations owed by either Party as of the date of termination (including the amount owed by Operator with respect to the Operator Payment Default and interest payable with respect thereto) and continuing on a prorated basis until the Removal Obligations are completed; (ii) the removal of the Improvements by Operator pursuant

to Section 8.11; and (iii) any other obligations and liabilities that are expressly stated in this Agreement to survive such termination. Owner's right to terminate this Agreement pursuant to this Section 18.1.2 is subject to and conditioned upon Owner giving any Operator Mortgagee written notice and opportunity to cure the Operator Payment Default as provided in Section 13.2.

18.2 **Other Operator Default.** Operator shall be in default of this Agreement if it shall fail to meet any of its obligations under the terms of this Agreement other than an Operator Payment Default as set forth in Section 18.1 and shall not cure such default within thirty (30) days after receiving notice thereof from Owner (or if such default cannot be cured through the exercise of reasonable diligence within such thirty (30) day period, if Operator fails to commence corrective action within such thirty (30) day period and thereafter diligently prosecutes same to completion) ("**Other Operator Default**"). The breach by Operator of any provision hereof may only result in a cause of action by Owner under applicable law and, other than as set forth in this Section 18.2, Owner hereby waives all other rights it may have, in law or in equity, to terminate this Agreement prior to the expiration of the Term. In the event of any such breach by Operator, Owner shall, at least thirty (30) days prior to commencing any cause of action, give written notice of the cause of breach to Operator, and any Operator Mortgagee (of which it has been notified in writing) concurrently, specifying in detail the alleged event of breach and the required remedy. If Operator does not cure or commence curing such breach within thirty (30) days of receipt of notice, the Operator Mortgagee or its designee shall have the absolute right, but not the obligation, to substitute itself for Operator and perform the duties of Operator hereunder for the purposes of curing such breach. Owner expressly consents to such substitution, agrees to accept such performance, and authorizes the Operator Mortgagee or its designee (or its employees, agents, representatives or contractors) to enter upon the Owner's Property to complete such performance with all the rights, privileges and obligations of Operator hereunder. Owner may cure any default by Operator after Operator's cure period has expired. If Owner at any time by reason of Operator's default, pays any sum or performs any act that requires the payment of any sum, the sum paid by Owner shall be due immediately from Operator to Owner, together with interest on such sum calculated at the Default Rate.

18.3 **Owner Default.** Owner shall be in default of this Agreement if it shall fail to meet any of its obligations under the terms of this Agreement and shall not cure such default within thirty (30) days after receiving notice thereof from Operator (or if such default cannot be cured through the exercise of reasonable diligence within such thirty (30) day period, if Owner fails to commence corrective action within such thirty (30) day period and thereafter diligently prosecutes same to completion) ("**Owner Default**"). Upon the occurrence of an Owner Default, Operator shall have the option to pursue any one or more of the following remedies without any further notice or demand whatsoever: (i) terminate this Agreement without being liable for prosecution or any claim of damages therefor; and (ii) pursue any and all other action or remedies that may be available to Operator at law or in equity, including but not limited to all loss or damage which Operator may suffer by reason of a termination of this Agreement.

19. **Condemnation.**

19.1 **Complete Taking.** If, at any time, any authority having the power of eminent domain shall condemn all or substantially all of the Operator's Property, or all of the Improvements thereon, for any public use or otherwise, then the interests and obligations of

Operator under this Agreement in or affecting the Operator's Property shall cease and terminate upon the earlier of (i) the date that the condemning authority takes physical possession of the Operator's Property or the Improvements thereon, (ii) the date that Operator is, in its sole judgment, no longer able or permitted to operate the Project on the Operator's Property in a commercially viable manner, or (iii) the date of the condemnation judgment. Operator shall continue to pay all amounts payable hereunder to Owner until the earlier of such dates, at which time the Parties shall be relieved of any and all further obligations and conditions to each other under this Agreement.

19.2 **Partial Taking.** If, at any time during the term of this Agreement, any authority having the power of eminent domain shall condemn one or more, but not all, of the Solar Panels, or any portion of the Improvements or the Operator's Property, then the interest and obligations of Operator under this Agreement as to those Solar Panels or any portion of the Improvements or the Operator's Property so taken shall cease and terminate upon the earlier of (i) the date that the condemning authority takes possession of such Solar Panels or any portion of the Improvements or the Operator's Property, (ii) the date that Operator is, in its reasonable judgment, no longer able or permitted to operate the Project on the Operator's Property, or any portion thereof, in a commercially viable manner, or (iii) the date of the condemnation judgment; and, unless this Agreement is terminated as hereinafter provided, this Agreement shall continue in full force and effect as to the remainder of the Solar Panels, Improvements and the Operator's Property. If the remainder of the Solar Panels or any other portion of the Improvements or the Operator's Property is or becomes insufficient or unsuitable for Operator's purposes hereunder, as determined by Operator in its sole discretion, then, subject to the rights of any Operator Mortgagee under Section 13, Operator shall have the right to terminate this Agreement as to the portion of the Operator's Property to which Operator continues to hold the rights, at which time the Parties shall be relieved of any further obligations and duties to each other under this Agreement.

19.3 **Apportionment, Distribution of Award.** On any taking, all sums awarded, including damages and interest, shall be paid as follows:

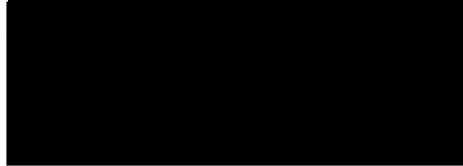
- (a) Any portion of the award by the court on account of any cost or loss that Operator may sustain in the removal and relocation of Operator's Improvements, to Operator;
- (b) Any portion of the award by the court for Operator's anticipated or lost revenues or profits, to Operator;
- (c) Any portion of the award by the court for Owner's lost revenues, to Owner;
- (d) All remaining amounts of the award, to Owner or Operator consistent with applicable Kentucky law.

20. **Notice.**

20.1 **Writing.** All notices given or permitted to be given hereunder shall be in writing.

20.2 **Delivery.** Notice is considered given either (i) when delivered in person to the recipient named below, (ii) upon receipt after deposit in the United States mail in a sealed envelope or container, postage and postal charges prepaid, return receipt requested or certified mail, addressed by name and address to the party or person intended, or (iii) twenty-four (24) hours from proper and timely delivery to an overnight courier service addressed by name and address to the party or person intended as follows:

Notice to Owner: Milton E. Crowder and Diane G. Crowder



Notice to Operator: Boulevard Associates, LLC
700 Universe Blvd
Juno Beach, FL 33408
Attn: Land Services Administration
Telephone: (855) 552-9872

20.3 **Change of Recipient or Address.** Either Party may, by notice given at any time or from time to time, require subsequent notices to be given to another individual person, whether a party or an officer or representative, or to a different address, or both. Notices given before actual receipt or notice of change shall not be invalidated by the change.

21. **Miscellaneous Provisions.**

21.1 **Successors and Assigns.** The terms and provisions of this Agreement shall run with the land and be binding on and inure to the benefit of the heirs, successors, assigns and personal representatives of the Parties. In accordance with this Agreement, Operator in its discretion may authorize other persons or entities to use the Operator Property for the purposes stated in this Agreement

21.2 **Memorandum.** Simultaneously with the execution of this Agreement, the Parties agree to execute and acknowledge a memorandum of this Agreement. Operator may record the executed memorandum in the public records of Henderson County, Kentucky.

21.3 **Entire Agreement.** This Agreement and the attached Exhibits shall constitute the entire agreement between the Parties and supersedes all other prior writings and understandings.

21.4 **Amendments.** This Agreement shall not be amended or modified in any way except by an instrument signed by the Parties and consented to by any Operator Mortgagee. The Parties hereto shall at all times hereafter execute any documents and do any further acts which may be necessary or desirable to carry out the purposes of this Agreement and to give full force and effect to each and all of the provisions hereof.

21.5 **Legal Matters.** This Agreement shall be governed by and interpreted in accordance with the then existing laws of the Commonwealth of Kentucky and the County where

the Owner's Property is located shall be considered the proper forum or jurisdiction for any disputes arising in connection with this Agreement. The Parties agree to first attempt to settle any dispute arising out of or in connection with this Agreement by good-faith negotiation. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, each shall have all remedies available at law or in equity and as provided by this Agreement. **Each Party waives all right to trial by jury and specifically agrees that trial of suits or causes of action arising out of this Agreement shall be to the court of competent jurisdiction.**

21.6 **Severability.** If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid, shall be enforced to the fullest extent permitted by law.

21.7 **Tax Credits.** If under applicable law Operator becomes ineligible for any currently existing tax credit, benefit or incentive for alternative energy expenditure established by any local, state or federal government, then, at Operator's option, the Parties shall negotiate in good faith to amend this Agreement or replace it with a different instrument so as to convert Operator's interest in the Operator Property to a substantially similar interest that makes Operator eligible for such tax credit, benefit or incentive. Such amendment or instrument shall not impair any of Owner's rights or increase the burdens or obligations of Owner under this Agreement.

21.8 **Approvals.** Whenever in this Agreement the approval or consent of either Party is required or contemplated, unless otherwise specified, such approval or consent shall not be unreasonably withheld or delayed.

21.9 **Authority.** The signatories hereto warrant that each has the authority to execute this Agreement on behalf of any entities which are Parties to this Agreement and that each such entity has executed this Agreement pursuant to its organizational documents or a resolution or consent of their Board of Directors or other governing body.

21.10 **Time of Essence.** Time is of the essence of each provision of this Agreement.

21.11 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

[Signatures on Next Page]

Owner:



Milton E. Crowder



Diane G. Crowder

Operator:

Boulevard Associates, LLC
a Delaware limited liability company

By: 

Matthew S. Handel, Vice President

EXHIBIT A

Legal Description of Owner's Property

The following described real property located in Henderson County, Kentucky, to- wit:

Beginning at a stake, corner to Sam Spencer in a few feet of a large maple tree, south 86° east 47 poles, 13 links to a stake, corner to Luther Eblen; thence north $4-3/4^{\circ}$ east 43 poles to a stone, corner to Eblen; thence south 86° east 1 pole and 17 links to a stone; thence north $11-1/2^{\circ}$ east 51 poles and 7 links to a stone, corner to Mrs. Wm. Eblen; thence north 87° west 33 poles to a corner in T.T. Royster's line; thence with his line south 18° west 95 poles, 16 links to the beginning, containing 21 acres, more or less but subject to legal highways.

Beginning at a stone, J.W. Otey's corner; thence running north $67-1/2^{\circ}$ west 37 poles and 19 links to a maple stump, corner with Tom Spencer in Otey's line: thence south $27-1/2^{\circ}$ west 179 poles and 3 links to a stone in the Royster line, corner with Tom Spencer; thence south $59-1/2^{\circ}$ east 70 poles and 11 links to an elm in the Lithicum line, corner with Eblen; thence north $17-1/2^{\circ}$ east 190 poles and 15 links to the beginning; containing 61.81 acres, more or less, but subject to legal highways.

Beginning at stone, corner to Samuel Spencer: thence south $88-1/2^{\circ}$ east $117-3/4$ poles to a stone in Felix Eakins' line; thence north 135 poles to a stone; thence north $88-1/2^{\circ}$ west $117-3/4$ poles to a stone; thence south with Samuel Spencer's line to the beginning, containing 100 acres, more or less, but subject to legal highways.

Beginning at a post oak stump in Lee Eakins line, corner to L.B. Eblen & W.G. Duncan & running thence with Duncan's line N. 1 W. 245 feet to a point in the middle of the Robards & Cairo Road and in L. B. Eblen's line; thence with the middle of said road S. $87-50$ W. 411 feet, S. $71-10$ W. 286 feet & S. $53-55$ W. 126 feet to a point in middle of said road and in the T. T. Royster's line; thence with Royster's line S. $83-50$ E. 616 feet to a post in said line; thence with Royster's and Lee Eakins line N. $89-45$ E. 176 feet to the beginning, and containing 3.2 acres.

LESS AND EXCEPT the following tract sold by Mrs. W.D DeVasher and her husband to E. U. Weldon by deed recorded in Deed Book 109, at Page 119, Henderson County Court Clerk's Office, to- wit:

All that property located on the southeast corner of the intersection of the Robards and Tunnel Hill road and the Petersburg and Anthoston road known as Highway 283. Said parcel of land is bounded on the north by the Robards and Tunnel Hill road; on the east by the property of E.U. Weldon; on the south by the property of Lee Eakins and on the west by State Highway 283, or the Petersburg and Anthoston road, containing one acre, more or less. This is the eastern part of a lot of ground formerly owned by Rufus Eblen. Said State Highway 283 known as the Petersburg and Anthoston road cut said original lot in two, part thereof being located on the east side of said road and the other part on the west side and adjoining the lands of Mrs. W.D. DeVasher. There is only being conveyed by this deed the part that is located on the east side of said Highway 283. The part located on the west side and adjoining the land of Mrs. W.D. DeVasher is not included in this conveyance.

Being Tracts 1, 2, 3 and 6 in that certain deed from Charlotte Gregory Taylor, a Widow, to Arnold G. Taylor dated October 2, 1976, appearing of record in Deed Book 289, at Page 248, in the Henderson County Clerk's Office. Charlotte Gregory Taylor died on or about October __, 1984, thereby extinguishing her life estate in the above described property.

HOLDING PAGE FOR EXHIBIT B

Preliminary Lease and Easement Improvement Plan and Acreage Calculation
To be Delivered with Option Notice

HOLDING PAGE FOR EXHIBIT C

As Built Lease and Easement Improvements and Final Acreage Calculation

EXHIBIT D

